

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Promoting Telehealth in Rural America ) WC Docket No. 17-310  
 )

THIRD REPORT AND ORDER

Adopted: December 13, 2023 Released: December 14, 2023

By the Commission: Chairwoman Rosenworcel issuing a statement.

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I. INTRODUCTION

1. In this Third Report and Order, we continue the Commission’s efforts to improve the effectiveness and efficiency of the Rural Health Care (RHC) Program. The RHC Program offers discounted rates for broadband and other communications services to health care providers who use these increasingly essential services to better treat patients in rural areas that may have limited resources, fewer medical professionals, and higher rates for these services than in urban areas. Broadband-enabled telehealth and telemedicine services in particular have proven to be critical tools for the effective delivery of health care to millions of patients in rural areas, as demonstrated by the heightened dependency on these services during the COVID-19 pandemic. Telemedicine and telehealth make the provision of high-quality health care a reality for patients regardless of location or ability to travel. The measures that we adopt today will enhance the provision of these vital services through the RHC Program.

2. We adopt four revisions to the RHC Program as proposed in the *Second Further Notice of Proposed Rulemaking* aimed at facilitating participation in and improving the administration of the Program.<sup>1</sup> First, we revise the RHC Program rules to permit conditional approval of eligibility for health

<sup>1</sup> *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Order on Reconsideration, Second Report and Order, Order, and Second Further Notice of Proposed Rulemaking, FCC 23-6, 2023 WL 1420076 (Jan. 27, 2023).  
(continued....)

care providers that expect to be eligible in the near future to allow them to initiate competitive bidding and request funding. Second, to give participants more flexibility with deadlines, we revise our rules to move back the RHC Program's Service Provider Identification Number (SPIN) change deadline to align with the invoice deadline. Third, we simplify the rules for determining urban rates by eliminating the seldom-used "standard urban distance" component of the urban rate rules. Fourth, in a separate action to provide more flexibility with deadlines, we revise the RHC Program rules to permit health care providers to request changes to the dates of their evergreen contracts following a funding commitment.

3. In addition to these revisions, we also on our own motion make two programmatic improvements to the administration of the RHC Program and Universal Service Fund. To reduce burdens and promote efficiency, we harmonize the RHC Program eligibility determination process by shifting to the use of a single universal eligibility form for all program participants. Finally, to free up for other uses unclaimed RHC Program support, we establish a deadline by which health care providers must submit invoices for any undisbursed funding commitments from funding year 2019 and prior that do not currently have an applicable invoice deadline.

## II. BACKGROUND

4. The RHC Program consists of two component programs: (1) the Telecommunications (Telecom) Program and (2) the Healthcare Connect Fund (HCF) Program. The Telecom Program, established in 1997, subsidizes the difference between the rates for eligible telecommunications services in the health care provider's rural area and rates for comparable services available in urban areas within that state.<sup>2</sup> The HCF Program, created in 2012, promotes the use of broadband services and facilitates the formation of health care provider consortia that include both rural and urban health care providers<sup>3</sup> by providing a flat 65% discount on an array of advanced telecommunications and information services.<sup>4</sup>

5. The Commission commenced a significant retooling of the RHC Program in 2019 when it adopted the *Promoting Telehealth Report and Order*.<sup>5</sup> The reforms contained in that order furthered the goals of transparency and consistency in the RHC Program in various ways, including by prioritizing RHC Program support for rural areas in the event Program demand exceeds available funding<sup>6</sup> and ensuring competitive bidding is fair and open.<sup>7</sup> The *Promoting Telehealth Report and Order* also simplified the RHC Program application processes and clarified Program procedures.<sup>8</sup>

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Subsequent references to this decision are as either *Promoting Telehealth Order on Reconsideration* when referring to the Order on Reconsideration, *Promoting Telehealth Second Report and Order* when referring to the Second Report and Order, or *Promoting Telehealth Second Further Notice* when referring to the Second Further Notice of Proposed Rulemaking.

<sup>2</sup> See 47 U.S.C. § 254(h)(1)(A); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9093-161, paras. 608-749 (1997) (*Universal Service First Report and Order*).

<sup>3</sup> See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, 16680-81, paras. 1-2 (2012) (*Healthcare Connect Fund Order*).

<sup>4</sup> See 47 U.S.C. § 254(h)(2)(A); 47 CFR § 54.611; *Healthcare Connect Fund Order*, 27 FCC Rcd at 16680-81, paras. 1-3.

<sup>5</sup> *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, 34 FCC Rcd 7335 (2019) (*Promoting Telehealth Report and Order*). In the *Promoting Telehealth Order on Reconsideration*, the Commission eliminated the Rates Database used to determine urban and rural rates, one of the reforms adopted in the *Promoting Telehealth Report and Order*, after finding anomalies in the median rates calculated using the database that called into question its accuracy and consistency. See *Promoting Telehealth Order on Reconsideration* at \*4, para. 11. In lieu of the Rates Database, the Commission reinstated the mechanisms for calculating urban and rural rates that existed before adoption of the *Promoting Telehealth Report and Order*. *Id.* at \*4, para. 9.

<sup>6</sup> See 47 CFR § 54.621(b); *Promoting Telehealth Report and Order*, 34 FCC Rcd at 7390-7403, paras. 116-43.

<sup>7</sup> See 47 CFR §§ 54.622-54.623; *Promoting Telehealth Report and Order*, 34 FCC Rcd at 7406-15, paras. 153-71.

6. In the *Promoting Telehealth Second Report and Order* adopted earlier this year, the Commission implemented additional reforms to promote RHC Program efficiency.<sup>9</sup> Most significantly, the Commission amended the Telecom Program invoice process to harmonize it with the HCF invoice process.<sup>10</sup> The Commission also amended the funding cap and prioritization rules to limit the application of the internal cap and to prioritize health care providers' current year financial need over their future year need when the internal cap is exceeded.<sup>11</sup> In the *Promoting Telehealth Second Further Notice* adopted with the *Promoting Telehealth Second Report and Order*, the Commission proposed additional RHC Program reforms, several of which we address in today's Third Report and Order.<sup>12</sup>

### III. DISCUSSION

7. In this Third Report and Order, we continue to improve the RHC Program by facilitating health care provider participation in and improving the administration of the Program. Specifically, we revise the RHC Program rules to permit conditional eligibility for health care providers and eliminate the seldom-used "standard urban distance" component of the urban rate rule. We also make two changes relating to RHC Program administrative deadlines by aligning the SPIN change deadline with the existing invoice deadline and permitting health care providers to request a change to evergreen contract dates. We then amend our rules to shift to the use of the same form when determining Telecom and HCF Program eligibility. Finally, we establish a deadline by which invoices must be submitted for undisbursed funding commitments from before funding year 2020.

#### A. Conditional Approval of Eligibility for Future Eligible Health Care Providers

8. We first adopt amendments to the RHC Program rules to allow conditional approval of eligibility consistent with what the Commission proposed in the *Promoting Telehealth Second Further Notice*.<sup>13</sup> The amendments enable entities that do not meet all eligibility requirements at the time they seek eligibility determinations to obtain conditional approval of eligibility, conduct competitive bidding, and request funding prior to receiving formal approval of eligibility. With this change, entities granted such conditional approval may conduct competitive bidding and request funding before they receive formal eligibility approval, ensuring that they are able to participate in the RHC Program for the funding year in which they expect to receive a formal eligibility approval. However, entities with conditional approval will not receive funding commitments until they meet all eligibility requirements. The substantive standard used to determine full eligibility remains unchanged. This change ensures that health care providers that are not yet eligible during the application window, but expect to become eligible in the near future, are not locked out of much needed funding. All commenters who addressed

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<sup>8</sup> See 47 CFR §§ 54.624-627; *Promoting Telehealth Report and Order*, 34 FCC Rcd at 7429-33, paras. 203-12.

<sup>9</sup> See *Promoting Telehealth Second Report and Order* at \*1, para. 1.

<sup>10</sup> See *id.* at \*19-20, paras. 55-59.

<sup>11</sup> See *id.* at \*20-23, paras. 60-68.

<sup>12</sup> Except to the extent expressly addressed in this Third Report and Order, the issues upon which the Commission sought comment in the *Promoting Telehealth Second Further Notice* remain pending. In this Third Report and Order, we make certain targeted changes to RHC Program rules, and we do not elect to take on other issues suggested by some parties, instead leaving those for consideration or action as warranted in the future. See, e.g., SHLB Dec. 7, 2023 Ex Parte Letter (requesting that the Commission issue blanket waivers of the SPIN change deadline for funding years predating the rule change in this Third Report and Order, adopt rules regarding the eligibility of network equipment that it previously sought comment on, and issue new rule proposals regarding inflation adjustments for cost thresholds in RHC Program rules).

<sup>13</sup> *Promoting Telehealth Second Further Notice* at \*34-35, paras. 97-99.

this proposal supported it, and no commenters opposed this change.<sup>14</sup> This change will be effective for funding year 2025, the competitive bidding process for which begins in mid-2024.<sup>15</sup>

9. Eligible health care providers, as defined in section 254(h)(7)(B) of the Communications Act and implemented in the Commission's rules, are limited to the following categories: (1) post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools; (2) community health centers or health centers providing health care to migrants; (3) local health departments or agencies; (4) community mental health centers; (5) not-for-profit hospitals; (6) rural health clinics; (7) skilled nursing facilities; and (8) consortia of health care providers consisting of one or more entities falling into the first seven categories.<sup>16</sup> In addition, eligible health care providers must be non-profit or public.<sup>17</sup> In the Telecom Program, only eligible health care providers located in a "rural area" defined in section 54.600(e) of the Commission's rules can receive support.<sup>18</sup> The HCF Program, on the other hand, permits rural eligible health care providers as well as non-rural eligible health care providers participating in a majority-rural consortium to receive support.<sup>19</sup>

10. To allow health care providers to receive RHC Program funding as soon as they become eligible, we amend section 54.601 of our rules to permit entities that expect to meet all eligibility requirements before the end of a given upcoming funding year to request and receive a conditional approval of eligibility.<sup>20</sup> We also amend section 54.622(e)(1) of our rules to allow those entities to make the required certifications when filing a Request for Services to initiate competitive bidding.<sup>21</sup> The amendments we adopt today will enable entities that receive conditional approval of program eligibility to conduct competitive bidding and submit funding requests *prior* to receiving formal approval of

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<sup>14</sup> See SHLB Comments at 8-9 ("This will ensure these HCPs can obtain support as soon as they open, instead of having to wait until the next funding year."); AANP/FH Comments at 2-3 ("We support this change, and believe it will improve flexibility for providers, and ensure they will not have to wait a subsequent funding year to receive RHC Program funding."); SHLB Reply Comments at 8 (believing that "this flexibility will, in turn, maximize the RHC Program's ability to provide much-needed funding for rural providers at a time when the need is high."); NETC Reply Comments at 2 ("This change will ensure support is available for sites that become eligible during a funding year with little risk for waste or abuse.").

<sup>15</sup> This change will take effect July 1, 2024, the date that competitive bidding for funding year 2025 begins. Competitive bidding commences one full year before the funding year begins. See *Promoting Telehealth Report and Order*, 34 FCC Rcd at 7416, para. 175. Because competitive bidding for funding year 2024 has already begun and it is unlikely that the necessary reviews and approvals under the Paperwork Reduction Act will be obtained before funding year 2024 competitive bidding ends, this change will take effect for competitive bidding for funding year 2025.

<sup>16</sup> 47 U.S.C. § 254(h)(7)(B); 47 CFR § 54.600(b).

<sup>17</sup> 47 U.S.C. § 254(h)(1)(A), (h)(2)(A), (h)(4); 47 CFR § 54.601(a).

<sup>18</sup> See 47 U.S.C. § 254(h)(1)(A); 47 CFR § 54.602(a); *Universal Service First Report and Order*, 12 FCC Rcd at 9093-161, paras. 608-749.

<sup>19</sup> See 47 U.S.C. § 254(h)(2)(A); 47 CFR § 54.607; *Healthcare Connect Fund Order*, 27 FCC Rcd at 16680-81, paras. 1-3.

<sup>20</sup> See Appx. A, Final Rules, 47 CFR § 54.601(c) as adopted herein.

<sup>21</sup> See Appx. A, Final Rules, 47 CFR § 54.622(e)(1)(i)-(ii) as adopted herein. Consistent with the amendment to section 54.622(e)(1)(i) of our rules which will allow applicants with conditional approval of eligibility to certify that they expect to be public or non-profit health care providers under section 54.600, as was proposed in the *Promoting Telehealth Second Further Notice*, we add an amendment to section 54.622(e)(1)(ii) to allow such applicants to certify that they expect to be located in a "rural area" or expect to be a member of a majority-rural consortium. These amendments will allow applicants with conditional approval of eligibility to make the necessary certifications when filing a Request for Services as required by the program rules. See 47 CFR § 54.622(e)(1)(i)-(ii).

eligibility.<sup>22</sup> However, the substantive standard used to determine eligibility remains unchanged. Entities that receive conditional approval of eligibility will not receive funding commitments until they actually become eligible and receive the formal approval of eligibility under the existing substantive standard.<sup>23</sup> No RHC funding shall be committed or disbursed to an entity for any time period that is prior to the date the entity is formally approved as eligible.<sup>24</sup> We direct the Universal Service Administrative Company (Administrator or USAC), upon approval from the Wireline Competition Bureau (Bureau), to implement the conditional approval of eligibility mechanism as discussed in more detail further below.

11. This change is warranted given the change to a fixed application filing window in the RHC Program. Before funding year 2016, after an initial application filing window, the Administrator accepted applications on a rolling basis until the last day of the funding year.<sup>25</sup> Since funding year 2017, no applications have been accepted following the close of the initial application window.<sup>26</sup> Beginning in funding year 2021, the Commission's rules require the Administrator to open an initial filing window period with an end date no later than April 1 prior to the start of the funding year.<sup>27</sup>

12. In 2016, when applications were still accepted on a rolling basis and there were two application windows, the Bureau issued the *Hope Community Order*, which held that if an entity had not demonstrated its eligibility at the time of its eligibility determination form submission for a funding year, it would be ineligible to receive RHC Telecommunications Program support for that funding year.<sup>28</sup>

<sup>22</sup> See Appx. A, Final Rules, 47 CFR § 54.601(c)(2)-(3) as adopted herein.

<sup>23</sup> See Appx. A, Final Rules, 47 CFR § 54.601(c)(3)-(4) as adopted herein.

<sup>24</sup> See Appx. A, Final Rules, 47 CFR § 54.601(c)(4) as adopted herein.

<sup>25</sup> See *Wireline Competition Bureau Provides a Filing Window Period Schedule for Funding Requests under the Telecommunications Program and the Healthcare Connect Fund*, Public Notice, 31 FCC Rcd 9588, 9590 (WCB 2016) (*Filing Window Public Notice*) (“[The Administrator] has accepted funding requests for the Telecommunications and Health Care Connect Fund Programs until the last day of the funding year.”); see also 47 CFR § 54.675(c)(4) (2013-2019) (“The deadline to submit a funding commitment request under the Telecommunications Program and the Healthcare Connect Fund is June 30 for the funding year that begins on the previous July 1.”). The RHC Program funding year runs from July 1 of the current calendar year through June 30 of the next calendar year. 47 CFR § 54.600(a).

<sup>26</sup> For funding year 2016, the Administrator accepted applications during an initial filing window that ended before the start of the funding year, continued to accept applications on a rolling basis until the opening of a second filing window during the funding year, and then accepted applications during the second filing window that ended during the funding year. See *Filing Window Public Notice*, 31 FCC Rcd at 9590-91. In funding year 2017, demand exceeded the \$400 million RHC Program funding cap by approximately \$121 million, and the Commission took action to avoid proration reductions by increasing the funding cap to \$571 million and applying it to funding year 2017. See *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, 33 FCC Rcd 6574, 6577-78, paras. 7, 9 (2018). In each of funding years 2018, 2019, and 2020, gross demand for multi-year commitments and upfront payments during the initial filing window exceeded the internal cap on multi-year commitments and upfront payments, and the Commission took actions to avoid proration or prioritization reductions of the support for those funding requests. See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 34 FCC Rcd 4136, 4138, paras. 1, 9 (2019); *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 35 FCC Rcd 2659, 2662-63, para. 9 (2020); *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 35 FCC Rcd 11696, 11699, para. 9 (WCB 2020). Starting with funding year 2021, section 54.621(a)(3) of the Commission's rules requires that “[a]ll funding requests submitted outside of a filing window will not be accepted unless and until the Administrator opens another filing window.” 47 CFR § 54.621(a)(3). No second filing windows have been opened and no applications accepted after the initial filing window since funding year 2017.

<sup>27</sup> 47 CFR § 54.621(a)(1); *Promoting Telehealth Report and Order*, 34 FCC Rcd at 7416, para. 176.

<sup>28</sup> *Hope Community Resources, Inc. – Barrow MH, Rural Health Care Universal Service Support Mechanism*, WC Docket No. 02-60, Order, 31 FCC Rcd 7883, 7887-88, para. 9 (WCB 2016) (*Hope Community Order*) (“while Hope Community asserts the Barrow site provides outpatient mental health services, the prospective language ... indicate (continued....)”).

The change we make today eliminates this limitation and allows health care providers to seek conditional eligibility approval so they can participate in the program in the year in which they expect to become fully eligible, even if they receive their full eligibility approval after the initial application window closes. Based on our experience administering the program, we find it appropriate to eliminate *Hope Community Order's* requirement that a site be eligible for RHC Program support, which requires that it qualifies as one of the eligible health care providers defined by section 254(h)(7)(B),<sup>29</sup> at the time of its request for eligibility determination.<sup>30</sup> In funding year 2013, the funding year at issue in the *Hope Community Order*, the Administrator accepted applications on a rolling basis throughout the funding year, which permitted a health care provider to begin receiving funding for RHC Program supported services within a few months after it became an eligible entity under section 254(h)(7)(B).<sup>31</sup> Shortly after meeting eligibility requirements, the health care provider could receive its eligibility determination, engage in competitive bidding, file a Request for Funding during the rolling application window, and start to receive funding.

13. Absent the change we make today, with the current use of a fixed filing window, a health care provider might have to wait more than one year after becoming an eligible health care provider to receive RHC Program funding. For example, if a new medical provider is in the process of opening and expects to become eligible under section 254(h)(7)(B) on July 1, 2025, which is after the initial application filing window, it may not be able to receive RHC Program support for funding year 2025 because it could not have been approved as eligible until after the provider's July 1, 2025 opening date.<sup>32</sup> Permitting conditional approvals of eligibility will allow health care providers that are not yet eligible but expect to become an eligible health care provider in a given upcoming funding year to complete competitive bidding and file Requests for Funding so they are able to receive RHC Program funding as soon as they are fully designated as an eligible health care provider under the Commission's rules.

14. To protect the integrity and success of the RHC program and ensure that no RHC Program funding is disbursed for entities that are not yet fully approved as eligible, we adopt the following safeguards for conditional approvals of eligibility. First, to request conditional approval of eligibility, an applicant must submit an eligibility determination form and supporting documentation to the Administrator, which will include the estimated date that it expects to meet all eligibility requirements.<sup>33</sup> The documentation must show that the entity is or reasonably expects to qualify as a

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that outpatient services will be provided at a future time,” and “we affirm USAC’s decision and find that Hope Barrow did not demonstrate that it was eligible as a ‘community mental health center,’ at the time of its FCC Form 465 submission for funding year 2013, and therefore was ineligible to receive RHC Telecommunications Program support.”).

<sup>29</sup> *Hope Community Order*, 31 FCC Rcd at 7883-84, para. 1 (finding that the Hope Barrow facility was ineligible to receive RHC Program support for the time period at issue because it did not qualify as a “community mental health center,” as defined by section 254(h)(7)(B)). In *Hope Community Order*, the site at issue sought eligibility as a “community mental health center” which requires it provide outpatient mental health treatment. *Id.* at 7884-85, para. 3.

<sup>30</sup> See *Hope Community Order*, 31 FCC Rcd at 7888, para. 9. The FCC Form 465, in addition to requesting for services, “certifies to USAC that the health care provider is eligible to participate in the RHC Program.” *Id.* at 7884, para. 2.

<sup>31</sup> See *id.* at 7885, para. 4; 47 U.S.C. § 254(h)(7)(B).

<sup>32</sup> See 47 CFR § 54.621(a)(1) (requiring that the application filing window close by April 1 preceding the funding year).

<sup>33</sup> To facilitate the administration of conditional approvals, an applicant requesting conditional approval of eligibility may not submit the eligibility determination form (e.g., the FCC Form 460) more than one year prior to start of the funding year in which the applicant is estimated to meet all eligibility requirements. That is, the estimated eligibility date must be either in the same funding year as the date that the applicant requests the conditional approval of eligibility or in the next funding year of the date that the applicant requests the conditional approval of eligibility. See Appx. A, Final Rules, 47 CFR § 54.601(c)(1)(iii) as adopted herein. For example, if an applicant requesting conditional approval of eligibility estimates that it will meet all eligibility requirements during funding year 2025,

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public or non-profit health care provider defined in section 54.600(b) of the Commission's rules by the estimated eligibility date.<sup>34</sup> Additionally, if applying for the Telecom Program or if applying as an individual applicant in the HCF Program, the entity must be located or reasonably expect to be located in a rural area defined in section 54.600(e) of the Commission's rules by the estimated eligibility date, or, if not located in such a rural area, for purposes of applying for the HCF Program, be or plan to be a member of a majority-rural HCF Program consortium that satisfies the eligible rural health care provider composition requirement set forth in section 54.607(b) of the Commission's rules by the estimated eligibility date.<sup>35</sup>

15. Once the Administrator approves an applicant's conditional eligibility, the applicant can proceed to conduct competitive bidding for the conditionally-approved site(s). In order to provide notice of the applicant's conditional eligibility to potential bidders and service providers, an applicant engaging in competitive bidding with conditional eligibility must provide a written indication with its competitive bidding form indicating (1) that the eligibility is conditional, and (2) when the estimated expected eligibility date is.<sup>36</sup> After conducting competitive bidding and signing a service contract, the applicant can submit a funding request during the application filing window for a given funding year, provided that the applicant's estimated expected eligibility date is no later than the end of that funding year.<sup>37</sup> To ensure that no funding is committed or disbursed for health care providers that are conditionally eligible under section 254(h)(7)(B) or the RHC Program rules, entities with conditional approval of eligibility will not be able to receive funding commitments or disbursements until they meet all eligibility requirements and are granted a formal approval of eligibility.<sup>38</sup> This restriction is consistent with the Commission rule that RHC Program funding is provided to eligible health care providers for services for health care purposes.<sup>39</sup>

16. An applicant with conditional approval of eligibility is expected to notify the Administrator within 30 calendar days of its actual eligibility date and provide documentation confirming that it is actually eligible.<sup>40</sup> If the Administrator determines that the entity meets the requirements for a public or non-profit health care provider defined in section 54.600(b) and the requirements for rural

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the eligibility determination form may not be submitted prior to the beginning of funding year 2024 (i.e., July 1, 2024). Entities seeking non-conditional eligibility approvals can continue to submit eligibility forms at any time.

<sup>34</sup> See Appx. A, Final Rules, 47 CFR § 54.601(c)(1)(i) as adopted herein. For example, the supporting documentation could be a copy of the application for a state license for entities requesting conditional approval of eligibility as a not-for-profit hospital. Any official documentation that can reasonably show that the applicant expects to qualify as a public or non-profit eligible health care provider as defined in section 54.600(b) around the estimated eligibility date is acceptable.

<sup>35</sup> 47 CFR § 54.607(b); Appx. A, Final Rules, 47 CFR § 54.601(c)(1)(ii) as adopted herein. Requiring the submission of documentation for all three of the section 54.601(c)(1) criteria would pose a minimal incremental burden on applicants and is necessary to promote program integrity.

<sup>36</sup> See Appx. A, Final Rules, 47 CFR § 54.601(c)(2) as adopted herein.

<sup>37</sup> See Appx. A, Final Rules, 47 CFR § 54.601(c)(3) as adopted herein.

<sup>38</sup> See *id.*

<sup>39</sup> See 47 CFR § 54.602(d) ("Services for which eligible health care providers receive support from the Telecommunications Program or the Healthcare Connect Fund Program must be reasonably related to the provision of health care services or instruction that the health care provider is legally authorized to provide under the law in the state in which such health care services or instruction are provided.").

<sup>40</sup> See Appx. A, Final Rules, 47 CFR § 54.601(c)(4) as adopted herein. The actual eligibility date is the date that the entity qualifies as a public or non-profit health care provider defined in section 54.600 of the Commission's rules and meets the rural location or majority-rural HCF consortium membership requirements set forth in sections 54.600(e) and 54.607(b) of the Commission's rules. The actual eligibility date can be a different date from the estimated eligibility date. See *id.*

location or majority-rural HCF consortium membership set forth in the Commission's rules,<sup>41</sup> the Administrator shall formally approve the applicant's eligibility and designate the applicant as an eligible health care provider.<sup>42</sup> The Administrator will then review the applicant's funding request and issue a funding commitment or denial in a timely manner. The funding commitment shall cover only a time period that starts no earlier than the applicant's actual approved eligibility date and that is within the funding year for which support was requested.<sup>43</sup> No funding shall be committed to ineligible entities or entities with only conditional approval and any support erroneously disbursed to ineligible entities or entities with only conditional approval must be recovered.<sup>44</sup> We direct the Administrator to implement these requirements in its procedures and delegate authority to the Bureau to issue further direction consistent with this Report and Order as necessary.

**B. Alignment of the Service Provider Identification Number Change Deadline with Invoice Deadline**

17. We next amend our rules to move back the Service Provider Identification Number (SPIN) change filing deadline to align with the invoice filing deadline, rather than the service delivery deadline. A SPIN is a unique number that the Administrator assigns to an eligible service provider seeking to participate in the universal service support programs.<sup>45</sup> An applicant under the HCF Program or Telecom Program may request either a "corrective SPIN change" (in cases not involving a change in the service provider associated with the applicant's funding request number) or an "operational SPIN change" (in cases involving a change to the service provider associated with the applicant's funding request number).<sup>46</sup> The current filing deadline to submit a SPIN change request is no later than the service delivery deadline, which, with limited exceptions, is June 30 of the funding year for which program support is sought.<sup>47</sup> The invoice deadline is 120 days after the later of the service delivery deadline or the date of a revised funding commitment letter.<sup>48</sup> In the *Promoting Telehealth Second Further Notice*, the Commission proposed to align the SPIN change deadline with the invoice deadline and commenters supported this change.<sup>49</sup>

<sup>41</sup> See 47 CFR §§ 54.600(e), 54.607(b).

<sup>42</sup> See Appx. A, Final Rules, 47 CFR § 54.601(c)(4) as adopted herein.

<sup>43</sup> See *id.* For example, an applicant granted conditional approval of eligibility submits a funding request during the initial filing window for funding year 2025, and the applicant's actual eligibility date is October 1, 2025. The funding commitment may cover only the time period starting October 1, 2025 to the end of the funding year, but shall not cover any time period prior to October 1, 2025, because the applicant is not eligible prior to October 1, 2025.

<sup>44</sup> See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16773, para. 215.

<sup>45</sup> To obtain a SPIN, a service provider must file an FCC Form 498 with the Administrator, which refers to a provider's SPIN as its 498 ID. See USAC, *Obtain a 498 ID*, <https://www.usac.org/rural-health-care/service-providers/step-1-participating-in-the-rhc-program/> (last visited Nov. 20, 2023).

<sup>46</sup> 47 CFR § 54.625(a), (b). For example, a corrective SPIN change is requested to correct ministerial errors or update a SPIN that resulted from a merger or acquisition of companies, and an operational SPIN change is requested when the applicant has a legitimate reason to change service providers, as in the case of a breach of contract. *Id.* The Commission adopted RHC Program SPIN change rules modeled after those of the E-Rate Program in the *Promoting Telehealth Report and Order*. See *Promoting Telehealth Report and Order*, 34 FCC Rcd at 7426-27, paras. 197-99.

<sup>47</sup> 47 CFR § 54.625(c). The service delivery deadline is defined in section 54.626(a) of the Commission's rules. *Id.* § 54.626(a).

<sup>48</sup> See 47 CFR § 54.627(a) (establishing that invoices must be submitted 120 days after the later of the service delivery deadline or the date of a revised funding commitment letter).

<sup>49</sup> See *Promoting Telehealth Second Further Notice* at \*35-36, paras. 101-103. SHLB and NETC filed comments supporting the proposal as likely to reduce the number of waivers filed at the Commission and reduce unnecessary

(continued....)



18. We move back the deadline for requesting SPIN changes effective funding year 2023 in response to program participant requests asserting that the nature of corrective SPIN changes creates a “recurring hardship for applicants” unable to meet the deadline, which, in turn, results in deadline waiver requests filed with the Commission.<sup>50</sup> According to these participant comments, two commonly recurring situations support a change to the corrective SPIN change deadline: (1) mergers and acquisitions that can occur at any time during the funding year and (2) a service provider that assigns one of its multiple SPINs to a funding request without advising the healthcare provider as to the correct SPIN before invoicing begins, a situation that, in many instances, occurs after the service delivery deadline has passed.<sup>51</sup> These commenters maintain that changing the deadline to request a corrective SPIN change to match the invoice deadline will provide the Administrator with sufficient time to process the change request without the need for applicants to request deadline waivers from the Commission.<sup>52</sup> We agree with these commenters that the current deadline for requesting corrective SPIN changes imposes unnecessary burdens and challenges for program participants that a later-in-time deadline will largely eliminate.

19. We move back the SPIN change deadline to align with the invoice deadline, which, in most cases is 120 days after the close of the funding year,<sup>53</sup> to reduce the need for applicants to seek, and for the Commission to address, waivers of the current corrective SPIN change deadline. This change facilitates participation in and the administration of the program, while still maintaining an administratively reasonable date by which such change requests must be made. Aligning the SPIN change deadline with the invoice deadline will not cause Program participants to miss the invoice deadline because a SPIN change results in a revised commitment letter, which will create a new invoice deadline 120 days from the issuance of the revised commitment letter.<sup>54</sup>

### C. Simplifying Urban Rate Calculations

20. In this section, we simplify the rules for calculating urban rates for the Telecom Program by eliminating the rarely-invoked “standard urban distance” provision from our rules. In the 2023 *Promoting Telehealth Order on Reconsideration*, the Commission eliminated the Rates Database and reinstated the long-standing rules for calculating urban rates.<sup>55</sup> These rules provide that the urban rate for an eligible service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in that state.<sup>56</sup> If, however, the service is provided over a distance greater than the standard urban distance, which is the average of the longest diameters of all cities with a population of 50,000 or more within a state, the urban rate is the rate no higher than the highest tariffed or publicly-available rate provided over the standard urban distance.<sup>57</sup> In the *Promoting Telehealth Second Further Notice*, the Commission proposed to simplify program rules by eliminating the distinction between services provided over and

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hardships for program participants. SHLB Comments at 9-10; NETC Reply Comments at 2. No commenters opposed this change.

<sup>50</sup> SHLB Jan. 17, 2023 *Ex Parte* Letter at 4. Because the SPIN change deadline for funding year 2023 has not yet lapsed, this change can be effective for funding year 2023.

<sup>51</sup> *Id.* at 5.

<sup>52</sup> *Id.*

<sup>53</sup> See 47 CFR § 54.627.

<sup>54</sup> See 47 CFR § 54.627(a)(2) (“The date of a revised funding commitment letter issued pursuant to an approved post-commitment request made by the applicant or service provider or a successful appeal of a previously denied or reduced funding request.”).

<sup>55</sup> See *Promoting Telehealth Order on Reconsideration* at \*8, paras. 23-24.

<sup>56</sup> See *id.* at Appx. A.

<sup>57</sup> See *id.*

within the standard urban distance and proposed to base all urban rates calculations on rates provided in a city, rather than over the standard urban distance.<sup>58</sup> It also sought comment on the extent to which health care providers rely on the standard urban distance distinction to calculate urban rates.<sup>59</sup>

21. Based on the record, we find that adopting our proposal to eliminate the standard urban distance provision from the urban rate rules will help simplify the calculation of urban rates in the Telecom Program. Eliminating it will make clearer the process for determining urban rates and there is no evidence that it will adversely impact health care providers because few, if any, Telecom Program participants calculate urban rates using this distinction. No commenters opined on the extent to which health care providers rely on the standard urban distance provision to calculate urban rates, which suggests that standard urban distance was not commonly invoked to calculate urban rates. The only commenter that addressed this proposal, the SHLB Coalition, supported this change.<sup>60</sup> Therefore, we adopt the proposal to base all urban rates calculations on rates provided in a city rather than over the standard urban distance. This change shall be applicable for funding year 2025.

#### **D. Change of Evergreen Contract Dates**

22. We next amend the RHC Program rules to permit health care providers to request a change in the evergreen contract dates following a funding commitment. Upon approving such a change, the Administrator will issue a revised funding commitment letter. This change will provide health care providers with the benefits of evergreen contract designation across the full length of the contract's term while also reducing the need for health care providers to seek relief from the Administrator in cases where a post-commitment evergreen contract date change is necessary. This new rule will become effective for funding year 2024.<sup>61</sup>

23. Evergreen contracts are multi-year agreements under which covered services are exempt from the competitive bidding requirements for the term of the contract, which may be extended by up to an aggregate of five years.<sup>62</sup> When the Administrator issues a funding commitment letter, it sets the period for an evergreen contract based on the estimated service start and end dates provided by the health care provider on the Request for Funding.<sup>63</sup> However, as we explained in the *Promoting Telehealth Second Further Notice*, services sometimes start after the estimated service start date, which means that the evergreen status of the contract expires before it would have if the evergreen designation period was based on the actual service start date.<sup>64</sup> In the *Promoting Telehealth Second Further Notice*, we sought comment on whether there should be a process for health care providers to change evergreen contract dates after a funding commitment has been made.<sup>65</sup> We also requested comment on how such a process could be accomplished.<sup>66</sup>

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<sup>58</sup> See *Promoting Telehealth Second Further Notice* at \*30, para. 88.

<sup>59</sup> See *id.*

<sup>60</sup> SHLB Comments at 6.

<sup>61</sup> Making this change effective for funding year 2024 will ensure that there is sufficient time for OMB approval under the Paperwork Reduction Act and changes of the Administrator's information technology systems.

<sup>62</sup> 47 CFR § 54.622(i)(3). To be designated an evergreen contract by the Administrator, a contract must be entered into as a result of competitive bidding, contain certain contractual terms, and meet other requirements. *Id.* § 54.622(i)(3)(ii). RHC Program participants may exercise voluntary options to extend an evergreen contract without undergoing additional competitive bidding provided, among other things, that the voluntary extension(s) do not exceed five years in the aggregate. *Id.* § 54.622(i)(3)(iii)(C).

<sup>63</sup> See SHLB Jan. 19, 2023 *Ex Parte* at 4-5.

<sup>64</sup> *Promoting Telehealth Second Further Notice* at \*36, para. 104.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

24. SHLB and NETC support, and no party opposes, allowing health care providers to request changes to their evergreen contract dates in cases when the contract supports those changes.<sup>67</sup> SHLB maintains that such requests should always be deemed timely and not precluded by expiration of the 60-day window for an appeal of the original funding commitment.<sup>68</sup> SHLB also suggests that the Commission clarify that the Administrator should defer to the parties' interpretation of a contract's start and end date unless it is "obviously inconsistent" with the language of the contract.<sup>69</sup>

25. We agree with SHLB and NETC that health care providers should be permitted to request evergreen contract changes following a funding commitment provided the contract supports a change. Aligning a contract's actual service start date with the start date that determines the duration of the evergreen contract period will exempt health care providers from the competitive bidding process for the full length of the contract, thereby providing certainty to RHC Program participants. This change will not alter rules or processes for multi-year commitments or other competitive bidding exemptions. Accordingly, we amend the RHC Program rules to allow health care providers to request changes to evergreen contract dates, subject to the following two requirements.<sup>70</sup>

26. First, we require that the terms of the evergreen contract support any requested date change. For example, an evergreen contract that specifies a start date effective upon signature of the contracting parties would not be eligible for a contract date change because the start date is a date established by the contract independent of the service start date. By contrast, an evergreen contract with terms specifying a start date tied to the commencement of services yet to be delivered would be eligible for a date change regardless of the date of signature. We make clear that any changes to the dates of the evergreen contract must be supported by the contract, and we decline to adopt SHLB's suggestion that the Administrator defer to the contracting parties' interpretation on the contract timing.<sup>71</sup> As in the case of "verification of discounts, offsets, or support amounts" as a general matter under section 54.707 of the Commission's rules, it will be incumbent upon applicants to ensure that the available evidence sufficiently justifies a given date change.<sup>72</sup>

27. Second, we require that health care providers request an evergreen contract change within 60 days of the date service commences. This 60-day window should provide health care providers with ample time to request a date change without having to resort to appealing the original funding commitment, which addresses the timing concern raised by SHLB and NETC.<sup>73</sup> We decline, however, to adopt SHLB's approach that all requests for evergreen contract changes be deemed timely.<sup>74</sup> Such an open-ended option would provide no incentive to health care providers to promptly notify the Administrator of evergreen contract date changes. To memorialize the changed evergreen contract dates, we direct the Administrator to issue a revised funding commitment letter to the health care provider

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<sup>67</sup> See SHLB Comments at 11; NETC Reply Comments at 2.

<sup>68</sup> SHLB Comments at 11. *See also* NETC Reply Comments at 2 (the "failure to notify [the Administrator] of an error involving contracts dates in the funding commitment letter within the 60-day appeal window should not affect [the Administrator's] ability to correct that information").

<sup>69</sup> SHLB Comments at 11. *See also* NETC Reply Comments at 2 (agreeing with SHLB that the Administrator "should defer to the parties' interpretation of their own contract provisions unless it is unsupported by documentary evidence.").

<sup>70</sup> *See* Appx. A, Final Rules, 47 CFR § 54.622(i)(3)(iv) as adopted herein.

<sup>71</sup> *See* SHLB Comments at 11. If the parties' interpretation of the evergreen contract differs from that of the Administrator's, a health care provider has the option of appealing that interpretation with the Administrator and, should it be necessary, the Commission. *See* 47 CFR § 54.719.

<sup>72</sup> 47 CFR § 54.707(a).

<sup>73</sup> *See* SHLB Comments at 11; NETC Reply Comments at 2.

<sup>74</sup> *See* SHLB Comments at 11.

reflecting the changed dates. If the Administrator denies a requested change, we direct it to issue a letter to the health care provider explaining the basis for the denial. Finally, we direct the Administrator to develop procedures subject to prior Bureau approval for accepting changes to evergreen contract dates consistent with the amended section 54.622(i)(3), and to publicize instructions on requesting changes to evergreen contract dates with the stakeholder community.

#### **E. Single Eligibility Form**

28. To reduce burdens on Telecom Program applicants and improve the efficiency and operation of the RHC Program, we next harmonize the RHC Program eligibility determination process by establishing a single eligibility determination form for both the Telecom Program and the HCF Program that is required to be filed only once. Applicants must first be determined eligible under section 254(h)(7)(B) of the Communications Act and RHC Program rules to receive support from the RHC Program.<sup>75</sup> The Telecom Program and the HCF Program currently have different procedures for eligibility determinations. In the Telecom Program, applicants seeking eligibility determinations use the FCC Form 465 (Description of Services Requested and Certification Form), which is the same form used to initiate competitive bidding.<sup>76</sup> Thus, even though most Telecom Program applicants' eligibilities are very unlikely to change from year to year, they are required to provide, and the Administrator is required to review, information regarding their eligibility statuses every time there is a new competitive bidding process, which is generally every year.

29. In contrast, when the HCF Program was established in 2012, the Commission instituted a more efficient process for eligibility determinations by separating the process for eligibility determination from the process for competitive bidding.<sup>77</sup> In the HCF Program, applicants file an FCC Form 460 (Eligibility and Registration Form) to seek a one-time eligibility determination that remains in place unless there is a material change in the entity's eligibility.<sup>78</sup> After receiving this eligibility determination, the applicant may file an FCC Form 461 (Request for Services Form) to initiate competitive bidding.<sup>79</sup> Thus, applicants are able to know whether they are eligible before they spend time and resources planning competitive bidding.<sup>80</sup> Because the FCC Form 460 is filed only once, the eligibility determination process in the HCF Program improves efficiency and reduces costs and time for both health care providers and the Administrator.

30. Therefore, beginning funding year 2025, the FCC Form 460 will be used for eligibility determinations in the Telecom Program and the eligibility determination portion will be eliminated from the FCC Form 465.<sup>81</sup> As a result of this change, starting for funding year 2025, the FCC Form 465 will be

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<sup>75</sup> 47 U.S.C. § 254(h)(7)(B); 47 CFR §§ 54.600(b), 54.601(a), 54.602(a), 54.607.

<sup>76</sup> See FCC Form 465; *Healthcare Connect Fund Order*, 27 FCC Rcd at 16772, para. 213; USAC, Rural Health Care Program, Telecommunications Program, Step 1: Determine Eligibility of Your Site, <https://www.usac.org/rural-health-care/telecommunications-program/step-1-determine-eligibility-of-your-site/> (last visited Nov. 20, 2023).

<sup>77</sup> See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16773, para. 214.

<sup>78</sup> See *id.*; USAC, Rural Health Care Program, Healthcare Connect Fund Program, Step 1: Determine Eligibility of Your Site, <https://www.usac.org/rural-health-care/healthcare-connect-fund-program/step-1-determine-eligibility-of-your-site/> (last visited Nov. 20, 2023).

<sup>79</sup> See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16773, para. 214; see also USAC, Rural Health Care Program, Healthcare Connect Fund Program, Step 2: Develop Bid Evaluation Criteria & Select Services, <https://www.usac.org/rural-health-care/healthcare-connect-fund-program/step-2-develop-evaluation-criteria-select-services/> (last visited Nov. 20, 2023).

<sup>80</sup> See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16773, para. 214.

<sup>81</sup> This change will take effect July 1, 2024, the date that competitive bidding for funding year 2025 begins. Competitive bidding commences one full year before the funding year begins. See *Promoting Telehealth Report and Order*, 34 FCC Rcd at 7416, para. 175. Because this change to the single eligibility form will result in the

(continued....)

used solely for competitive bidding in the Telecom Program while the FCC Form 461 will continue to be used for competitive bidding in the HCF Program. Because there are certain differences in eligibility requirements between the Telecom Program and the HCF Program, applicants who are determined eligible in one program are not necessarily eligible in the other program even though one eligibility determination form is used for both programs. For example, non-rural public or non-profit health care providers<sup>82</sup> who are members of majority-rural consortia are eligible to receive support under the HCF Program, but not under the Telecom Program. Thus, in this example, applicants whose FCC Form 460s are submitted specifically for the HCF Program and approved on that basis are not automatically eligible for support in the Telecom Program and must seek eligibility determinations in the Telecom Program if they subsequently wish to demonstrate their eligibility for that program. We direct the Bureau to amend the FCC Form 460 for eligibility determinations for both the Telecom Program and the HCF Program and direct the Administrator to track whether a health care provider is eligible for the Telecom Program, the HCF Program, or both.

31. As part of adopting the FCC Form 460 for the Telecom Program, we also amend section 54.601(b) of our rules to extend it to the Telecom Program effective for funding year 2025.<sup>83</sup> Section 54.601(b) addresses the timing requirements for eligibility determinations in the HCF Program and requires health care providers to notify the Administrator of changes to their name, location, contact information, or eligible entity type. It was adopted when the Commission established the HCF Program in 2012 as a procedural rule for specifying the process for determining health care provider eligibility in the HCF Program.<sup>84</sup> There are no corresponding rules for the eligibility determination process in the Telecom Program where applicants previously had to make a new eligibility showing every year they wished to seek support. Since a single eligibility determination form will be used for both programs, and thus now in the Telecom Program, like the HCF Program, applicants will be required to file separate forms for eligibility determination and request for services, and findings of eligibility will remain in place absent a material change in circumstances, it is reasonable to amend section 54.601(b) to make it apply to both programs to provide greater clarity to program participants.<sup>85</sup>

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eligibility determination portion being eliminated from the FCC Form 465 and the FCC Form 460 will be revised to include eligibility in the Telecom Program, revisions to both forms will be required. We expect that revisions to both forms will be available to RHC Program applicants when competitive bidding for funding year 2025 opens on July 1, 2024.

<sup>82</sup> The health care provider must fall into one of the categories under section 54.600(b) of the Commission's rules. 47 CFR § 54.600(b).

<sup>83</sup> See Appx. A, Final Rules, 47 CFR § 54.601(b), as adopted herein. The amendments to section 54.601(b) of our rules we adopt today are permissible without notice and comment in accordance with the exception to the Administrative Procedure Act (APA) for procedural rules. See 5 U.S.C. § 553(b)(A). These amendments are procedural in nature because they extend an HCF Program procedural rule to the Telecom Program, but do not change the eligibility requirements or rights of eligible health care providers to receive RHC Program funding. See *JEM Broad. Co. Inc. v. FCC*, 22 F.3d 320, 326-27 (D.C. Cir. 1994) (noting that the "critical feature of the procedural exemption is that it covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency" and explaining that the "critical fact here, however, is that the 'hard look' rules did not change the *substantive standards* by which the FCC evaluates license applications") (internal quotations omitted).

<sup>84</sup> See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16866, Appx. D, 47 CFR § 54.601(b).

<sup>85</sup> In light of the conditional approval eligibility rules we adopt today, we delete the phrase "at any time" from section 54.601(b)(2) of our rules because section 54.601(c)(1)(iii) prohibits applicants seeking conditional approval of eligibility from submitting an FCC Form 460 more than one year prior to the start of the funding year in which the applicant is estimated to meet all eligibility requirements. See Appx. A, Final Rules, 47 CFR § 54.601(c)(1)(iii) as adopted herein. Applicants seeking a regular eligibility determination are still allowed to certify to the eligibility of particular sites at any time prior to filing a request for services.

32. To further reduce unnecessary burdens and ease the implementation of this change, we direct the Administrator to deem presumptively eligible for funding year 2025 and beyond any health care provider with an existing eligibility approval in the Telecom Program. Because the eligibility status of health care providers rarely changes, an additional up-front eligibility determination for funding year 2025 is unnecessary. This direction is consistent with the eligibility determination process in the HCF Program. We remind any health care providers with changes to conditions that might impact their eligibility status of the requirement to update the Administrator within 30 days of the change.<sup>86</sup> As before, health care providers in both the Telecom and HCF Programs are required to certify their eligibility when filing a Request for Services to initiate competitive bidding.<sup>87</sup>

33. We emphasize that our actions today do not change the substantive requirements for determining eligibility in the RHC Program. It is the RHC Program applicants' obligation to submit accurate information and certifications regarding their eligibility, including the obligation to notify the Administrator within 30 days of a material change in their eligibility information.<sup>88</sup> Because health care provider eligibility is limited by the Act, the Commission does not have discretion to waive eligibility requirements, and must recover any support erroneously disbursed to ineligible entities.<sup>89</sup>

#### **F. De-Obligation of Undisbursed, Un-Invoiced Commitments**

34. We establish a deadline of July 1, 2024 for Telecom Program participants to submit invoices for funding years 2019 and earlier, the period during which there was no invoice deadline in the Telecom Program.<sup>90</sup> After that date, funding commitments from funding year 2019 and earlier that have not yet been invoiced will be de-obligated and will not be able to be invoiced. The Commission established an invoice deadline for the Telecom Program effective funding year 2020 in the *Promoting Telehealth Report and Order*.<sup>91</sup> The Commission explained that this deadline of 120 days from the service delivery deadline supported the "harmonization of the invoice deadline for RHC programs" and provided "applicants with sufficient time to submit their invoices and seek reimbursements from the Administrator," while being "necessary for the efficient administration of the RHC program."<sup>92</sup>

35. There is currently \$22.2 million in undisbursed, un-invoiced commitments from funding

<sup>86</sup> See Appx. A, Final Rules, 47 CFR § 54.601(b), as adopted herein.

<sup>87</sup> See 47 CFR § 54.622(e)(1)(i)-(ii). The required certifications provide additional safeguards in the event that an eligible health care provider becomes ineligible.

<sup>88</sup> See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16773, para. 214; Appx. A, Final Rules, 47 CFR § 54.601(b), as adopted herein.

<sup>89</sup> See *Healthcare Connect Fund Order*, 27 FCC Rcd at 16773, para. 215.

<sup>90</sup> As a procedural rule change, establishing a filing deadline for invoices for funding years 2019 and earlier properly can be done without prior notice and comment. See 5 U.S.C. § 553(b)(A). This rule change is procedural in nature because it specifies a deadline for when certain filings must be made, but does not change the substantive eligibility requirements or rights of eligible health care providers to receive RHC Program funding. See *JEM Broad. Co. Inc. v. FCC*, 22 F.3d 320, 326-27 (D.C. Cir. 1994) (noting that the "critical feature of the procedural exemption is that it covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency" and explaining that the "critical fact here, however, is that the 'hard look' rules did not change the *substantive standards* by which the FCC evaluates license applications") (internal quotations omitted). Insofar as affected parties have already gone years without seeking the support they originally applied for—even assuming they could submit invoices—we are not persuaded of the significance of their interest in being able to receive that support at an indefinite time in the future. See, e.g., *Mendoza v. Perez*, 754 F.3d 1002, 1024 (D.C. Cir. 2014) ("[T]he distinction between substantive and procedural rules is one of degree depending upon whether the substantive effect is sufficiently grave so that notice and comment are needed to safeguard the policies underlying the APA.") (citation and internal quote marks omitted).

<sup>91</sup> *Promoting Telehealth Report and Order*, 34 FCC Rcd at 7422-24, paras. 188-91; see also 47 CFR § 54.627.

<sup>92</sup> *Promoting Telehealth Report and Order*, 34 FCC Rcd at 7423, para. 189.

year 2019 and earlier, when there was no invoice submission deadline.<sup>93</sup> Establishing an invoice submission deadline of July 1, 2024 for Telecom Program funding requests from funding year 2019 and earlier and de-obligating unused funding is appropriate for several reasons. It is highly unlikely, given the significant lapse of time, that a significant portion of this funding will ever be invoiced, and some of these commitments may be for services that were ultimately never used. At this point, the Administrator receives very few invoices for services from prior to funding year 2019.<sup>94</sup> Further, this deadline provides ample time for Program participants to assess whether they have undisbursed commitments requiring invoicing and to complete the invoicing process for those funding requests. Any funding de-obligated as a result of this change can be used for more useful purposes.

36. Therefore, all existing Telecom Program commitments from funding year 2019 and earlier must be invoiced by July 1, 2024. This decision does not affect the invoice deadline for Telecom Program funding requests for funding year 2020 and later, which are subject to the invoice deadlines established in section 54.627 of the Commission's rules. In the event that the Administrator issues a funding commitment in the future for a funding request for funding year 2019 or earlier,<sup>95</sup> invoices for that funding commitment must be submitted within 120 days of the issuance of a commitment letter.<sup>96</sup>

#### IV. PROCEDURAL MATTERS

37. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>97</sup> requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."<sup>98</sup> Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning rule and policy changes in the Third Report and Order. The FRFA is set forth in Appendix B.

38. *Paperwork Reduction Act.* The Third Report and Order may contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).<sup>99</sup> All such new or modified requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies will be invited to comment on any new or modified information collection requirements contained in this proceeding. The Commission will publish a separate document in the Federal Register at a later date seeking these comments. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), the Commission previously sought specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. We have described impacts that might affect small businesses in the FRFA in Appendix B.

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<sup>93</sup> Letter from Mark Sweeney, Vice President, Universal Service Administrative Company, to Jodie Griffin, Chief, Telecommunications Access Policy Division, Wireline Competition Bureau and Bryan Boyle, Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, WC Docket 17-310 (filed Nov. 21, 2023).

<sup>94</sup> *See id.* (stating that the Administrator received nine Telecom Program invoices in calendar year 2023 through October 31, 2023 for service from prior to funding year 2019).

<sup>95</sup> The Administrator could potentially issue a funding commitment for a funding year 2019 or earlier funding request due to resolution of a pending appeal, among other reasons.

<sup>96</sup> *See* 47 CFR § 54.627(a)(2) (requiring invoices to be submitted within 120 days of a revised commitment letter).

<sup>97</sup> The RFA, *see* 5 U.S.C. §§ 601-612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>98</sup> 5 U.S.C. § 605(b).

<sup>99</sup> Pub. L. No. 104-13.

39. *Congressional Review Act.* [The Commission will submit this draft Third Report and Order to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for concurrence as to whether this rule is “major” or “non-major” under the Congressional Review Act, 5 U.S.C. § 804(2).] The Commission will send a copy of this Third Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

40. *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

41. *Contact Person.* For further information about this proceeding, please contact Philip A. Bonomo, Assistant Division Chief, Telecommunications Access Policy Division, Wireline Competition Bureau Federal Communications Commission at (202) 418-7400.

## V. ORDERING CLAUSES

42. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 4(j), 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(j), 214, and 254 and section 1.429 of the Commission’s rules, 47 CFR § 1.429, that this Third Report and Order IS ADOPTED.

43. IT IS FURTHER ORDERED, that pursuant to section 1.103 of the Commission’s rules, the provisions of this Third Report and Order WILL BECOME EFFECTIVE thirty (30) days from the date of publication in the Federal Register unless indicated otherwise herein.

44. IT IS FURTHER ORDERED, that pursuant to the authority contained in sections 1 through 4, 201 through 205, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, 254, 303(r), and 403, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. § 1302, Part 54 of the Commission’s rules, 47 CFR Part 54, is AMENDED as set forth in Appendix A, and such rule amendments shall be effective (30) days after the publication of the Third Report and Order in the Federal Register, except that sections 54.601(b), 54.601(c), and 54.622(e)(1)(i)-(ii), which may contain new or modified information collection requirements, will not become effective until the Office of Management and Budget completes any required review under the Paperwork Reduction Act. In addition, section 54.604 will not become effective until the later of: (1) 30 days after the publication of the Third Report and Order in the Federal Register; or (2) after the Office of Management and Budget completes any required review under the Paperwork Reduction Act associated with changes to that rule adopted in the *Promoting Telehealth Order on Reconsideration*.<sup>100</sup> The Commission directs the Wireline Competition Bureau to publish a notice in the *Federal Register* announcing completion of such reviews and the relevant effective dates.

45. IT IS FURTHER ORDERED that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Third Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

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<sup>100</sup> *Promoting Telehealth Order on Reconsideration*, FCC 23-6, 2023 WL 1420076, \*45, para. 132 (amendments to section 54.604 adopted there will not take effect until any required OMB approval under the Paperwork Reduction Act); see also FCC, *Promoting Telehealth in Rural America*, 88 Fed. Reg. 17379, 17379, 17395 (Mar. 23, 2023).



46. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Evaluation and Records Management, SHALL SEND a copy of this Third Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

## APPENDIX A

## Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 to read as follows:

**PART 54 – UNIVERSAL SERVICE**

1. The authority citation for part 54 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601-1609, and 1752, unless otherwise noted.

2. Amend § 54.601 by revising paragraph (b) and adding a new paragraph (c) to read as follows:

**§ 54.601 Health care provider eligibility.**

\* \* \* \* \*

- (b) *Determination of health care provider eligibility for the Rural Health Care Program.* (1) Before funding year 2025, health care providers in the Healthcare Connect Fund Program may certify to the eligibility of particular sites at any time prior to, or concurrently with, filing a request for services to initiate competitive bidding for the site. Applicants who utilize a competitive bidding exemption must provide eligibility information for the site to the Administrator prior to, or concurrently with, filing a request for funding for the site. Health care providers must also notify the Administrator within 30 days of a change in the health care provider's name, site location, contact information, or eligible entity type.
- (2) Effective for funding year 2025, applicants in the Rural Health Care Program may certify to the eligibility of particular sites prior to, or concurrently with, filing a Request for Services to initiate competitive bidding for the site. Applicants who utilize a competitive bidding exemption must provide eligibility information for the site to the Administrator prior to, or concurrently with, filing a Request for Funding for the site. Health care providers must notify the Administrator within 30 days of a change in the health care provider's name, site location, contact information, or eligible entity type.
- (c) *Conditional Approval of Eligibility.* Effective for funding year 2025, (1) An entity that does not yet meet all eligibility requirements under the Rural Health Care Program may request and receive a conditional approval of eligibility from the Administrator if the entity provides documentation showing that it satisfies the following requirements:
- (i) The entity is or reasonably expects to qualify as a public or non-profit health care provider as defined in §54.600(b) of this subpart by an estimated eligibility date;
- (ii) The entity is or reasonably expects to be physically located in a rural area defined in §54.600(e) of this subpart by the estimated eligibility date or, for the Healthcare Connect Fund Program only, is not located in a rural area but is or plans to be a member of a majority-rural Healthcare Connect Fund Program consortium that satisfies the eligible rural health care provider composition requirement set forth in §54.607(b) of this subpart by the estimated eligibility date; and
- (iii) The estimated eligibility date is in the same funding year as or in the next funding year of the date that the entity requests the conditional approval of eligibility.
- (2) An entity that receives conditional approval of eligibility may conduct competitive bidding for the site. An entity engaging in competitive bidding with conditional approval of eligibility must provide a written notification to potential bidders that the entity's eligibility is conditional and specify the estimated eligibility date.

- (3) An entity that receives conditional approval of eligibility may file a request for funding for the site during an application filing window opened for a funding year that ends after the estimated eligibility date. The Administrator shall not issue any funding commitments to applicants that have received conditional approval of eligibility only. Funding commitments may be issued only after such applicants receive formal approval of eligibility as described in paragraph (c)(4) of this section.
- (4) An entity that receives conditional approval of eligibility is expected to notify the Administrator, along with supporting documentation for the eligibility, within 30 days of its actual eligibility date. The actual eligibility date is the date that the entity qualifies as a public or non-profit health care provider as defined in §54.600(b) of this subpart and meets the requirements under paragraph (c)(1)(ii) of this section. The actual eligibility date may be a different date from the estimated eligibility date. The Administrator shall formally approve the entity's eligibility if the entity meets the requirements for a public or non-profit health care provider defined in §54.600(b) of this subpart and the requirements under paragraph (c)(1)(ii) of this section. Upon the entity receiving a formal approval of eligibility, the Administrator may issue funding commitments covering a time period that starts no earlier than the entity's actual eligibility date and that is within the funding year for which support was requested.

3. Amend § 54.604 by replacing paragraphs (a) – (d) to read as follows:

**§ 54.604. Determining the urban rate.**

(a) Effective funding year 2024

- (1) If a rural health care provider requests support for an eligible service to be funded from the Telecommunications Program that is to be provided over a distance that is less than or equal to the “standard urban distance,” as defined in paragraph (a)(3) of this section, for the state in which it is located, the “urban rate” for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in that state, calculated as if it were provided between two points within the city.
  - (2) If a rural health care provider requests an eligible service to be provided over a distance that is greater than the “standard urban distance,” as defined in paragraph (a)(3) of this section, for the state in which it is located, the urban rate for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service provided over the standard urban distance in any city with a population of 50,000 or more in that state, calculated as if the service were provided between two points within the city.
  - (3) The “standard urban distance” for a state is the average of the longest diameters of all cities with a population of 50,000 or more within the state.
  - (4) The Administrator shall calculate the “standard urban distance” and shall post the “standard urban distance” and the maximum supported distance for each state on its website.
- (b) As of funding year 2025, if a rural health care provider requests support for an eligible service to be funded from the Telecommunications Program the “urban rate” for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in that state, calculated as if it were provided between two points within the city.

4. Amend § 54.622(e)(1)(i) – (ii) to read as follows:

**§ 54.622 Competitive Bidding Requirements and Exemptions.**

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

- (i) The entity seeking supported services is a public or nonprofit health care provider that falls within one of the categories set forth in the definition of health care provider listed in § 54.600, or expects to be such a public or nonprofit health care provider before the end of the funding year for which the supported services are requested provided that the entity has received a conditional approval of eligibility pursuant to § 54.601(c) of this subpart.
- (ii) The health care provider seeking supported services is physically located in a rural area as defined in § 54.600 of this subpart or is a member of a Healthcare Connect Fund Program consortium which satisfies the rural health care provider composition requirements set forth in § 54.607(b) of this subpart. If an entity seeks supported services under a conditional approval of eligibility set forth in § 54.601(c) of this subpart, the entity expects to be located in a rural area defined in § 54.600 of this subpart before the end of the funding year for which the supported services are requested, or plans to be a member of a Healthcare Connect Fund Program consortium which satisfies the rural health care provider composition requirements set forth in § 54.607(b) of this subpart before the end of the funding year for which the supported services are requested.

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5. Amend § 54.622(i)(3) by adding a new paragraph (iv) to read as follows:

\* \* \* \* \*

(i) \* \* \*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(i) \* \* \*

(ii) \* \* \*

(iii) \* \* \*

- (iv) As of funding year 2024, if the date that services start under an evergreen contract differs from the date services were estimated to start, participants may request a change of the start date and end date of their evergreen contract within 60 days of the actual service start date provided the terms of the evergreen contract support such a change. Upon approving a requested change, the Administrator will issue a revised funding commitment letter to the health care provider reflecting the changed dates. If the Administrator denies a requested change, it will issue a letter to the health care provider explaining the basis for the denial.

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6. Amend § 54.625 by replacing paragraph (c) to read as follows:

§ 54.625 Service Provider Identification Number (SPIN) changes.

\* \* \* \* \*

- (c) *Filing Deadline.* An applicant must file its request for a corrective or operational SPIN change with the Administrator no later than the invoice filing deadline as defined by section 54.627.

**APPENDIX B****Final Regulatory Flexibility Analysis**

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Promoting Telehealth in Rural America*, Order on Reconsideration, Second Report and Order, and Second Further Notice of Proposed Rulemaking, released in January 2023 (*Second Further Notice*).<sup>2</sup> The Federal Communications Commission (Commission) sought written public comment on the proposals in the *Second Further Notice*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

**A. Need for, and Objectives of, the Third Report and Order**

2. In the *Third Report and Order*, the Commission seeks to further improve the Rural Health Care (RHC) Program's capacity to distribute telecommunications and broadband support to health care providers—especially small, rural healthcare providers (HCPs)—in the most equitable and efficient manner possible. Over the years, telehealth has become an increasingly vital component of healthcare delivery to rural Americans. Rural healthcare facilities are typically limited by the equipment and supplies they have and the scope of services they can offer, which ultimately can have an impact on the availability of high-quality health care. Therefore, the RHC Program plays a critical role in overcoming some of the obstacles healthcare providers face in delivering their services to rural communities. Considering the significance of RHC Program support, the Commission implements several measures to most effectively meet HCPs' needs while responsibly distributing the RHC Program's limited funds.

3. Additionally, the *Third Report and Order* adopts proposals from the January 2023 *Second Further Notice* that allow conditional approvals of eligibility to allow soon-to-be eligible providers to engage in competitive bidding, align the Service Provider Identification Number (SPIN) change deadline with the invoice deadline, simplify urban rate calculations, and allow health care providers to change evergreen contract dates.<sup>4</sup> We also harmonize the RHC Program eligibility determination process by establishing a single eligibility determination form for the Telecom Program and RHC program and announce a new deadline for the de-obligation of undisbursed, un-invoiced commitments.

**B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

4. There were no comments filed that specifically address the rules and policies proposed in the IRFA.

**C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration**

5. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rule(s) as

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<sup>1</sup> 5 U.S.C. § 603. The RFA, 5 U.S.C. § 601 - 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Order on Reconsideration, Second Report and Order, Order, and Second Further Notice of Proposed Rulemaking, FCC 23-6, 2023 WL 1420076 (Jan. 27, 2023) (*Second Further Notice*).

<sup>3</sup> 5 U.S.C. § 604.

<sup>4</sup> *Second Further Notice* at paras 71-115.

a result of those comments.<sup>5</sup> The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

**D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply**

6. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.<sup>6</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>7</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>8</sup> A “small business concern” is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>9</sup>

7. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein.<sup>10</sup> First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.<sup>11</sup> These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.<sup>12</sup>

8. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>13</sup> The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.<sup>14</sup> Nationwide, for tax year 2020, there

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<sup>5</sup> 5 U.S.C. § 604(a)(3).

<sup>6</sup> 5 U.S.C. § 604 (a)(4).

<sup>7</sup> 5 U.S.C. § 601(6).

<sup>8</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>9</sup> See 15 U.S.C. § 632.

<sup>10</sup> See 5 U.S.C. § 601(3)-(6).

<sup>11</sup> See SBA, Office of Advocacy, “What’s New With Small Business?,”

<https://advocacy.sba.gov/wp-content/uploads/2023/03/Whats-New-Infographic-March-2023-508c.pdf>. (Mar. 2023)

<sup>12</sup> *Id.*

<sup>13</sup> See 5 U.S.C. § 601(4).

<sup>14</sup> The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number of small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations – Form 990-N (e-Postcard), “Who must file,”

<https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.<sup>15</sup>

9. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>16</sup> U.S. Census Bureau data from the 2017 Census of Governments<sup>17</sup> indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.<sup>18</sup> Of this number, there were 36,931 general purpose governments (county,<sup>19</sup> municipal, and town or township<sup>20</sup>) with populations of less than 50,000 and 12,040 special purpose governments—-independent school districts<sup>21</sup> with enrollment populations of less than 50,000.<sup>22</sup> Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”<sup>23</sup>

<sup>15</sup> See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2020 with revenue less than or equal to \$50,000 for Region 1-Northeast Area (58,577), Region 2-Mid-Atlantic and Great Lakes Areas (175,272), and Region 3-Gulf Coast and Pacific Coast Areas (213,840) that includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

<sup>16</sup> See 5 U.S.C. § 601(5).

<sup>17</sup> See 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with “2” and “7”. See also Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

<sup>18</sup> See U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). See also tbl.2. CG1700ORG02 Table Notes\_Local Governments by Type and State\_2017.

<sup>19</sup> See *id.* at tbl.5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

<sup>20</sup> See *id.* at tbl.6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

<sup>21</sup> See *id.* at tbl.10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes\_Special Purpose Local Governments by State\_Census Years 1942 to 2017.

<sup>22</sup> While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

<sup>23</sup> This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations tbls. 5, 6 & 10.

## 1. Healthcare Providers

10. *Offices of Physicians (except Mental Health Specialists).* This industry comprises establishments of health practitioners having the degree of M.D. (Doctor of Medicine) or D.O. (Doctor of Osteopathy) primarily engaged in the independent practice of general or specialized medicine (except psychiatry or psychoanalysis) or surgery.<sup>24</sup> These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers.<sup>25</sup> The SBA small business size standard for this industry classifies a business having annual receipts of \$14 million or less as small.<sup>26</sup> The 2017 Economic Census indicates that 137,366 firms operated in this industry for the entire year.<sup>27</sup> Of this number, 126,098 firms had revenue of less than \$10 million.<sup>28</sup> Based on this data, we conclude that a majority of firms operating in this industry are small under the SBA size standard.

11. *Offices of Dentists.* This industry comprises establishments of health practitioners having the degree of D.M.D. (Doctor of Dental Medicine), D.D.S. (Doctor of Dental Surgery), or D.D.Sc. (Doctor of Dental Science) primarily engaged in the independent practice of general or specialized dentistry or dental surgery.<sup>29</sup> These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers.<sup>30</sup> They can provide either comprehensive preventive, cosmetic, or emergency care, or specialize in a single field of dentistry.<sup>31</sup> The SBA small business size standard for this industry classifies a business having annual receipts of \$8 million or less as small.<sup>32</sup> The 2017 Economic Census indicates that 113,795 firms operated in this industry for the entire year.<sup>33</sup> Of that number, 112,332 firms had revenue of less than \$5 million.<sup>34</sup> Based on this data, we conclude that a majority of dental businesses are small entities.

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<sup>24</sup>See U.S. Census Bureau, *2017 NAICS Definition, "621111 Offices of Physicians (except Mental Health Specialists),"* <https://www.census.gov/naics/?input=621111&year=2017&details=621111>.

<sup>25</sup> *Id.*

<sup>26</sup> See 13 CFR § 121.201, NAICS Code 621111.

<sup>27</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621111, <https://data.census.gov/cedsci/table?y=2017&n=621111&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>28</sup>*Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue less than \$100,000, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue for this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, *see* [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>29</sup> See U.S. Census Bureau, *2017 NAICS Definition, "621210 Offices of Dentists,"* <https://www.census.gov/naics/?input=621210&year=2017&details=621210>.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> See 13 CFR § 121.201, NAICS Code 621210.

<sup>33</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621210, <https://data.census.gov/cedsci/table?y=2017&n=621210&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.



12. *Offices of Chiropractors.* This industry comprises establishments of health practitioners having the degree of D.C. (Doctor of Chiropractic) primarily engaged in the independent practice of chiropractic.<sup>35</sup> These practitioners provide diagnostic and therapeutic treatment of neuromusculoskeletal and related disorders through the manipulation and adjustment of the spinal column and extremities, and operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers.<sup>36</sup> The SBA small business size standard for this industry classifies a business having annual receipts of \$8 million or less as small.<sup>37</sup> The 2017 Economic Census indicates that 34,414 firms operated in this industry for the entire year.<sup>38</sup> Of that number, 34,366 firms operated with revenue of less than \$5 million per year.<sup>39</sup> Based on this data, we conclude that a majority of chiropractors are small.

13. *Offices of Optometrists.* This industry comprises establishments of health practitioners having the degree of O.D. (Doctor of Optometry) primarily engaged in the independent practice of optometry.<sup>40</sup> These practitioners examine, diagnose, treat, and manage diseases and disorders of the visual system, the eye and associated structures as well as diagnose related systemic conditions.<sup>41</sup> Offices of optometrists prescribe and/or provide eyeglasses, contact lenses, low vision aids, and vision therapy.<sup>42</sup> They operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers, and may also provide the same services as opticians, such as selling and fitting prescription eyeglasses and contact lenses.<sup>43</sup> The SBA small business size standard for this industry classifies a business having annual receipts of \$8 million or less as small.<sup>44</sup> The 2017 Economic Census indicates that 17,879 firms operated in this industry for the entire year.<sup>45</sup> Of this

(Continued from previous page)

<sup>34</sup>*Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>35</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621310 “Offices of Chiropractors,” <https://www.census.gov/naics/?input=621310&year=2017&details=621310>.

<sup>36</sup> *Id.*

<sup>37</sup> See 13 CFR § 121.201, NAICS Code 621310.

<sup>38</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621310, <https://data.census.gov/cedsci/table?y=2017&n=621310&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>39</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>40</sup> See U.S. Census Bureau, *2017 NAICS Definition* “621320 Offices of Optometrists,” <https://www.census.gov/naics/?input=621320&year=2017&details=621320>.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> See 13 CFR § 121.201, NAICS Code 621320.

<sup>45</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621320, <https://data.census.gov/cedsci/table?y=2017&n=621320&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

number, 16,792 firms had revenue of less than \$5 million.<sup>46</sup> Based on this data, we conclude that a majority of firms in this industry are small.

14. *Offices of Mental Health Practitioners (except Physicians).* This industry comprises establishments of independent mental health practitioners (except physicians) primarily engaged in (1) the diagnosis and treatment of mental, emotional, and behavioral disorders and/or (2) the diagnosis and treatment of individual or group social dysfunction brought about by such causes as mental illness, alcohol and substance abuse, physical and emotional trauma, or stress.<sup>47</sup> These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers.<sup>48</sup> The SBA small business size standard for this industry classifies a business having annual receipts of \$8 million or less as small.<sup>49</sup> The 2017 Economic Census indicates that 19,316 firms operated in this industry for the entire year.<sup>50</sup> Of that number, 13,318 firms had revenue of less than \$5 million.<sup>51</sup> Based on this data, we conclude that a majority of mental health practitioners who do not employ physicians are small.

15. *Offices of Physical, Occupational and Speech Therapists and Audiologists.* This industry comprises establishments of independent health practitioners primarily engaged in one of the following: (1) providing physical therapy services to patients who have impairments, functional limitations, disabilities, or changes in physical functions and health status resulting from injury, disease or other causes, or who require prevention, wellness or fitness services; (2) planning and administering educational, recreational, and social activities designed to help patients or individuals with disabilities, regain physical or mental functioning or to adapt to their disabilities; and (3) diagnosing and treating speech, language, or hearing problems.<sup>52</sup> These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers.<sup>53</sup> The SBA small business size standard for this industry classifies a business having annual

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<sup>46</sup>*Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue less than \$100,000, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue for this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, *see* [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>47</sup> See U.S. Census Bureau, *2017 NAICS Definition, "621330 Offices of Mental Health Practitioners (except Physicians),"* <https://www.census.gov/naics/?input=621330&year=2017&details=621330>.

<sup>48</sup> *Id.*

<sup>49</sup> See 13 CFR § 121.201, NAICS Code 621330.

<sup>50</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621330, <https://data.census.gov/cedsci/table?y=2017&n=621330&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>51</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue less than \$100,000, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue for this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, *see* [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>52</sup> See U.S. Census Bureau, *2017 NAICS Definition, "621340 Offices of Physical, Occupational and Speech Therapists and Audiologists,"* <https://www.census.gov/naics/?input=621340&year=2017&details=621340>.

<sup>53</sup> *Id.*

receipts of \$11 million or less as small.<sup>54</sup> The 2017 Economic Census indicates that 22,402 firms in this industry operated for the entire year.<sup>55</sup> Of that number, 21,712 firms had revenue of less than \$5 million.<sup>56</sup> Based on this data, we conclude that a majority of businesses in this industry are small.

16. *Offices of Podiatrists.* This industry comprises establishments of health practitioners having the degree of D.P.M. (Doctor of Podiatric Medicine) primarily engaged in the independent practice of podiatry.<sup>57</sup> These practitioners diagnose and treat diseases and deformities of the foot and operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers.<sup>58</sup> The SBA small business size standard for this industry classifies a business having annual receipts of \$8 million or less as small.<sup>59</sup> The 2017 Economic Census indicates that 6,673 firms operated in this industry for the entire year.<sup>60</sup> Of that number, 6,235 firms had revenue of less than \$5 million.<sup>61</sup> Based on this data, we conclude that a majority of firms in this industry are small.

17. *Offices of All Other Miscellaneous Health Practitioners.* This industry comprises establishments of independent health practitioners (except physicians; dentists; chiropractors; optometrists; mental health specialists; physical, occupational, and speech therapists; audiologists; and podiatrists).<sup>62</sup> These practitioners operate private or group practices in their own offices (e.g., centers, clinics) or in the facilities of others, such as hospitals or HMO medical centers.<sup>63</sup> The SBA small business size standard for this industry classifies firms having annual receipts of \$9 million or less as small.<sup>64</sup> The 2017 Economic Census indicates that 14,194 firms in this industry operated the entire year.<sup>65</sup>

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<sup>54</sup> See 13 CFR § 121.201, NAICS Code 621340.

<sup>55</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621340, <https://data.census.gov/cedsci/table?y=2017&n=621340&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>56</sup> *Id.* The available U.S. Census data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>57</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621391 Offices of Podiatrists,” <https://www.census.gov/naics/?input=621391&year=2017&details=621391>.

<sup>58</sup> *Id.*

<sup>59</sup> See 13 CFR § 121.201, NAICS Code 621391.

<sup>60</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621391, <https://data.census.gov/cedsci/table?y=2017&n=621391&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>61</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue less than \$100,000, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue for this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>62</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621399 Offices of All Other Miscellaneous Health Practitioners,” <https://www.census.gov/naics/?input=621399&year=2017&details=621399>.

<sup>63</sup> *Id.*

<sup>64</sup> See 13 CFR § 121.201, NAICS Code 621399.

Of that number, 10,874 firms had revenue of less than \$5 million.<sup>66</sup> Based on this data, we conclude the majority of firms in this industry are small.

18. *Family Planning Centers.* This industry comprises establishments with medical staff primarily engaged in providing a range of family planning services on an outpatient basis, such as contraceptive services, genetic and prenatal counseling, voluntary sterilization, and therapeutic and medically induced termination of pregnancy.<sup>67</sup> The SBA small business size standard for this industry classifies firms having annual receipts of \$16.5 million or less as small.<sup>68</sup> The 2017 Economic Census indicates that 1,339 firms in this industry operated for the entire year.<sup>69</sup> Of that number, 1,014 firms had revenue of less than \$10 million.<sup>70</sup> Based on this data, we conclude that the majority of firms in this industry is small.

19. *Outpatient Mental Health and Substance Abuse Centers.* This industry comprises establishments with medical staff primarily engaged in providing outpatient services related to the diagnosis and treatment of mental health disorders and alcohol and other substance abuse.<sup>71</sup> These establishments generally treat patients who do not require inpatient treatment.<sup>72</sup> They may provide a counseling staff and information regarding a wide range of mental health and substance abuse issues and/or refer patients to more extensive treatment programs, if necessary.<sup>73</sup> The SBA small business size

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<sup>65</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621399, <https://data.census.gov/cedsci/table?y=2017&n=621399&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>66</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue less than \$100,000, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue for this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>67</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621410 Family Planning Centers,” <https://www.census.gov/naics/?input=621410&year=2017&details=621410>.

<sup>68</sup> See 13 CFR § 121.201, NAICS Code 621410.

<sup>69</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621410, <https://data.census.gov/cedsci/table?y=2017&n=621410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>70</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual category for less than \$100,000, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>71</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621420 Outpatient Mental Health and Substance Abuse Centers,” <https://www.census.gov/naics/?input=621420&year=2017&details=621420>.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

standard for this industry classifies a firm as small if it has \$16.5 million or less in annual receipts.<sup>74</sup> The 2017 Economic Census indicates that 5,637 firms operated for the entire year.<sup>75</sup> Of this number, 4,534 firms had of less than \$10 million.<sup>76</sup> Based on this data, we conclude that a majority of firms in this industry are small.

20. *HMO Medical Centers.* This industry comprises establishments with physicians and other medical staff primarily engaged in providing a range of outpatient medical services to the health maintenance organization (HMO) subscribers with a focus generally on primary health care.<sup>77</sup> These establishments are owned by the HMO.<sup>78</sup> HMO establishments that both provide health care services and underwrite health and medical insurance policies are also included in this industry.<sup>79</sup> The SBA small business size standard for this industry classifies firms having \$39 million or less in annual receipts as small.<sup>80</sup> The 2017 U.S. Economic Census indicates that 17 firms in this industry operated for the entire year.<sup>81</sup> However, the 2017 Economic Census does not provide disaggregated financial information for this industry, therefore the Commission cannot determine how many of the firms in this industry are small under the SBA small business size standard.<sup>82</sup>

21. *Freestanding Ambulatory Surgical and Emergency Centers.* This industry comprises establishments with physicians and other medical staff primarily engaged in (1) providing surgical services (e.g., orthoscopic and cataract surgery) on an outpatient basis or (2) providing emergency care services (e.g., setting broken bones, treating lacerations, or tending to patients suffering injuries as a result of accidents, trauma, or medical conditions necessitating immediate medical care) on an outpatient basis.<sup>83</sup> Outpatient surgical establishments have specialized facilities, such as operating and recovery

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<sup>74</sup> See 13 CFR § 121.201, NAICS Code 621420.

<sup>75</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621420, <https://data.census.gov/cedsci/table?y=2017&n=621420&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>76</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. The U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual category for less than \$100,000, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>77</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621491 HMO Medical Centers,” <https://www.census.gov/naics/?input=621491&year=2017&details=621491>.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> See 13 CFR § 121.201, NAICS Code 621491.

<sup>81</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621491, <https://data.census.gov/cedsci/table?y=2017&n=621491&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>82</sup> *Id.* The U.S. Census Bureau withheld publication of the sales/value of shipments/revenue information for firms in this industry to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue). We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>83</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621493 Freestanding Ambulatory Surgical and Emergency Centers,” <https://www.census.gov/naics/?input=621493&year=2017&details=621493>.



rooms, and specialized equipment, such as anesthetic or X-ray equipment.<sup>84</sup> The SBA small business size standard for this industry classifies firms having annual receipts of \$16.5 million or less as small.<sup>85</sup> The 2017 U.S. Economic Census indicates that 3,888 firms in this industry operated for the entire year.<sup>86</sup> Of that number, 3,132 firms had revenue of less than \$10 million.<sup>87</sup> Based on this data, we conclude that a majority of firms in this industry are small.

22. *All Other Outpatient Care Centers.* This industry comprises establishments with medical staff primarily engaged in providing general or specialized outpatient care (except family planning centers, outpatient mental health and substance abuse centers, HMO medical centers, kidney dialysis centers, and freestanding ambulatory surgical and emergency centers).<sup>88</sup> Centers or clinics of health practitioners with different degrees from more than one industry practicing within the same establishment (i.e., Doctor of Medicine and Doctor of Dental Medicine) are included in this industry.<sup>89</sup> The SBA small business size standard for this industry classifies a business with annual receipts of \$22.5 million or less as small.<sup>90</sup> The 2017 U.S. Economic Census indicates that 5,524 firms operated in this industry for the entire year.<sup>91</sup> Of this number, 4,584 firms had revenue of less than \$10 million.<sup>92</sup> Based on this data, we conclude that a majority of firms in this industry are small.

23. *Blood and Organ Banks.* This industry comprises establishments primarily engaged in collecting, storing, and distributing blood and blood products and storing and distributing body organs.<sup>93</sup> The SBA small business size standard for this industry classifies firms having annual receipts of \$35 million or less as small.<sup>94</sup> The 2017 U.S. Census Bureau data indicate that 293 firms operated in this

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<sup>84</sup> *Id.*

<sup>85</sup> See 13 CFR § 121.201, NAICS Code 621493.

<sup>86</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621493, <https://data.census.gov/cedsci/table?y=2017&n=621493&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>87</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual categories for less than \$100,000, and \$100,000 to \$249,999, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>88</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621498 All Other Outpatient Care Centers,” <https://www.census.gov/naics/?input=621498&year=2017&details=621498>.

<sup>89</sup> *Id.*

<sup>90</sup> See 13 CFR § 121.201, NAICS Code 621498.

<sup>91</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, 2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621498, <https://data.census.gov/cedsci/table?y=2017&n=621498&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>92</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>93</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621991 Blood and Organ Banks,” <https://www.census.gov/naics/?input=621991&year=2017&details=621991>.

<sup>94</sup> See 13 CFR § 121.201, NAICS Code 621991.

industry for the entire year.<sup>95</sup> Of that number, 219 firms operated with revenue of less than \$25 million.<sup>96</sup> Based on this data, we conclude the major of firms that operate in this industry are small.

24. *All Other Miscellaneous Ambulatory Health Care Services.* This U.S. industry comprises establishments primarily engaged in providing ambulatory health care services (except offices of physicians, dentists, and other health practitioners; outpatient care centers; medical and diagnostic laboratories; home health care providers; ambulances; and blood and organ banks).<sup>97</sup> The SBA small business size standard for this industry classifies businesses having annual receipts of \$18 million or less as small.<sup>98</sup> 2017 U.S. Bureau Census data show that 2,968 firms operated in this industry for the entire year.<sup>99</sup> Of that number, 2,810 firms had revenue of less than \$10 million.<sup>100</sup> Based on this data, we conclude that a majority of the firms in this industry are small. This industry comprises establishments known as medical laboratories primarily engaged in providing analytic or diagnostic services, including body fluid analysis, generally to the medical profession or to the patient on referral from a health practitioner.<sup>101</sup> The SBA small business size standard for this industry classifies a business as small if it has annual receipts of \$36.5 million or less.<sup>102</sup> 2017 U.S. Census Bureau data indicate that 2,799 firms operated in this industry for the entire year.<sup>103</sup> Of this number, 2,640 firms had revenue of less than \$25 million.<sup>104</sup> Based on this data, we conclude that a majority of firms that operate in this industry are small.

25. *Medical Laboratories.* This industry comprises establishments known as medical laboratories primarily engaged in providing analytic or diagnostic services, including body fluid analysis, generally to the medical profession or to the patient on referral from a health practitioner.<sup>105</sup> The SBA

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<sup>95</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621991, <https://data.census.gov/cedsci/table?y=2017&n=621991&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>96</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>97</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621999 All Other Miscellaneous Ambulatory Health Care Services,” <https://www.census.gov/naics/?input=621999&year=2017&details=621999>.

<sup>98</sup> See 13 CFR § 121.201, NAICS Code 621999.

<sup>99</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621999, <https://data.census.gov/cedsci/table?y=2017&n=621999&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>100</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>101</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621511 Medical Laboratories,” <https://www.census.gov/naics/?input=621511&year=2017&details=621511>.

<sup>102</sup> See 13 CFR § 121.201, NAICS Code 621511.

<sup>103</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621511, <https://data.census.gov/cedsci/table?y=2017&n=621511&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>104</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>105</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “621511 Medical Laboratories,” <https://www.census.gov/naics/?input=621511&year=2017&details=621511>.

small business size standard for this industry classifies a business as small if it has annual receipts of \$36.5 million or less.<sup>106</sup> 2017 U.S. Census Bureau data indicate that 2,799 firms operated in this industry for the entire year.<sup>107</sup> Of this number, 2,640 firms had revenue of less than \$25 million.<sup>108</sup> Based on this data, we conclude that a majority of firms that operate in this industry are small.

26. *Diagnostic Imaging Centers.* This U.S. industry comprises establishments known as diagnostic imaging centers primarily engaged in producing images of the patient generally on referral from a health practitioner.<sup>109</sup> The SBA small business size standard for this industry classifies firms having annual receipts of \$16.5 million or less as small.<sup>110</sup> The 2017 U.S. Economic Census indicates that 3,556 firms operated in this industry for the entire year.<sup>111</sup> Of that number, 3,233 firms had revenue of less than \$10 million.<sup>112</sup> Based on this data, we conclude that a majority of firms that operate in this industry are small.

27. *Home Health Care Services.* This industry comprises establishments primarily engaged in providing skilled nursing services in the home, along with a range of the following: personal care services; homemaker and companion services; physical therapy; medical social services; medications; medical equipment and supplies; counseling; 24-hour home care; occupation and vocational therapy; dietary and nutritional services; speech therapy; audiology; and high-tech care, such as intravenous therapy.<sup>113</sup> The SBA small business size standard for this industry classifies a firm having annual receipts of \$16.5 million or less as small.<sup>114</sup> The 2017 Economic Census indicates that 19,414 firms operated in this industry for the entire year.<sup>115</sup> Of that number, 18,291 firms had revenue of less than \$10 million.<sup>116</sup> Based on this data, we conclude that a majority of firms that operate in this industry are small.

<sup>106</sup> See 13 CFR § 121.201, NAICS Code 621511.

<sup>107</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621511, <https://data.census.gov/cedsci/table?y=2017&n=621511&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>108</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>109</sup> See U.S. Census Bureau, *2017 NAICS Definition, "621512 Diagnostic Imaging Centers,"* <https://www.census.gov/naics/?input=621512&year=2017&details=621512>.

<sup>110</sup> See 13 CFR § 121.201, NAICS Code 621512.

<sup>111</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621512, <https://data.census.gov/cedsci/table?text=EC1262SSSZ4&n=621512&tid=ECNSIZE2012.EC1262SSSZ4&hidePreview=false>.

<sup>112</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>113</sup> See U.S. Census Bureau, *2017 NAICS Definition, "621610 Home Health Care Services,"* <https://www.census.gov/naics/?input=621610&year=2017&details=621610>.

<sup>114</sup> See 13 CFR § 121.201, NAICS Code 621610.

<sup>115</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 621610, <https://data.census.gov/cedsci/table?y=2017&n=621610&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>116</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).



28. *Ambulance Services.* This industry comprises establishments primarily engaged in providing transportation of patients by ground or air, along with medical care.<sup>117</sup> These services are often provided during a medical emergency but are not restricted to emergencies.<sup>118</sup> The vehicles are equipped with lifesaving equipment operated by medically trained personnel.<sup>119</sup> The SBA small business size standard for this industry classifies businesses having annual receipts of \$20 million or less as small.<sup>120</sup> The 2017 U.S. Economic Census indicates that 2,744 firms operated in this industry for the entire year.<sup>121</sup> Of that number, 2,539 firms had revenue of less than \$10 million.<sup>122</sup> Based on this data, we conclude that a majority of firms in this industry is small.

29. *Kidney Dialysis Centers.* This industry comprises establishments with medical staff primarily engaged in providing outpatient kidney or renal dialysis services.<sup>123</sup> The SBA small business size standard for this industry classifies firms having annual receipts of \$41.5 million or less as small.<sup>124</sup> The 2017 U.S. Economic Census indicates that 378 firms operated in this industry for the entire year.<sup>125</sup> Of that number, 271 firms had revenue of less than \$25 million.<sup>126</sup> Based on this data, we conclude that a majority of firms in this industry are small.

30. *General Medical and Surgical Hospitals.* This industry comprises “establishments known and licensed as general medical and surgical hospitals primarily engaged in providing diagnostic and medical treatment (both surgical and nonsurgical) to inpatients with any of a wide variety of medical conditions.”<sup>127</sup> These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements.<sup>128</sup> The hospitals have an organized staff of physicians and other

<sup>117</sup> See U.S. Census Bureau, 2017 NAICS Definition, “621910 Ambulance Services,” <https://www.census.gov/naics/?input=621910&year=2017&details=621910>.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> See 13 CFR § 121.201, NAICS Code 621910.

<sup>121</sup> See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEREVFIRM, NAICS Code 621910, <https://data.census.gov/cedsci/table?y=2017&n=621910&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>122</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>123</sup> See U.S. Census Bureau, 2017 NAICS Definition, “621492 Kidney Dialysis Centers,” <https://www.census.gov/naics/?input=621492&year=2017&details=621492>.

<sup>124</sup> See 13 CFR § 121.201, NAICS Code 621492.

<sup>125</sup> See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEREVFIRM, NAICS Code 621492, <https://data.census.gov/cedsci/table?y=2017&n=621492&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>126</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual categories for less than \$100,000, \$100,000 to \$249,999 and \$500,000 to \$999,999 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>127</sup> See U.S. Census Bureau, 2017 NAICS Definition, “622110 General Medical and Surgical Hospitals,” <https://www.census.gov/naics/?input=622110&year=2017&details=622110>.

medical staff to provide patient care services and usually provide other services, such as outpatient services, anatomical pathology services, diagnostic X-ray services, clinical laboratory services, operating room services for a variety of procedures, and pharmacy services.<sup>129</sup> The SBA small business size standard for this industry classifies firms having annual receipts of \$41.5 million or less as small.<sup>130</sup> The 2017 U.S. Economic Census indicates that 2,948 firms operated in this industry for the entire year.<sup>131</sup> Of that number, 705 firms had revenue of less than \$25 million, while 709 firms had revenue between \$25 million and \$99,999,999 and 1,072 firms had revenue greater than \$100,000,000.<sup>132</sup> Based on this data, we conclude that approximately one-quarter of firms in this industry are small.

31. *Psychiatric and Substance Abuse Hospitals.* This industry comprises establishments known and licensed as psychiatric and substance abuse hospitals primarily engaged in providing diagnostic, medical treatment, and monitoring services for inpatients who suffer from mental illness or substance abuse disorders.<sup>133</sup> The treatment often requires an extended stay in the hospital.<sup>134</sup> These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements.<sup>135</sup> They have an organized staff of physicians and other medical staff to provide patient care services.<sup>136</sup> Psychiatric, psychological, and social work services are available at the facility.<sup>137</sup> These hospitals usually provide other services, such as outpatient services, clinical laboratory services, diagnostic X-ray services, and electroencephalograph services.<sup>138</sup> The SBA small business size standard for this industry classifies a business having annual receipts of \$41.5 million or less as small.<sup>139</sup> 2017 U.S. Census Bureau data indicate that 414 firms operated in this industry for the entire year.<sup>140</sup> Of this

(Continued from previous page)

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> See 13 CFR § 121.201, NAICS Code 622110.

<sup>131</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 622110, <https://data.census.gov/cedsci/table?y=2017&n=622110&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>132</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue of \$1,000,000 to \$2,499,999, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue for this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>133</sup> See U.S. Census Bureau, *2017 NAICS Definition, "622210 Psychiatric and Substance Abuse Hospitals,"* <https://www.census.gov/naics/?input=622210&year=2017&details=622210>.

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.* See U.S. Census Bureau, *2017 NAICS Definition, "622210 Psychiatric and Substance Abuse Hospitals,"* <https://www.census.gov/naics/?input=622210&year=2017&details=622210>.

<sup>139</sup> See 13 CFR § 121.201, NAICS Code 622210.

<sup>140</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 622210, <https://data.census.gov/cedsci/table?y=2017&n=622210&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

number, 174 firms had revenue of less than \$25 million.<sup>141</sup> We note that 195 firms had revenue between \$25 million and \$99,999,999 but we are unable to determine the number of firms in this group that have revenue of \$41.5 million or less.<sup>142</sup> Thus, based on the available data, under the SBA size standard slightly more than one-third of the businesses in this industry are small.

32. *Specialty (Except Psychiatric and Substance Abuse) Hospitals.* This industry consists of “establishments known and licensed as specialty hospitals primarily engaged in providing diagnostic, and medical treatment to inpatients with a specific type of disease or medical condition (except psychiatric or substance abuse).”<sup>143</sup> Hospitals providing long-term care for the chronically ill and hospitals providing rehabilitation, restorative, and adjustive services to physically challenged or disabled people are included in this industry.<sup>144</sup> These establishments maintain inpatient beds and provide patients with food services that meet their nutritional requirements.<sup>145</sup> They have an organized staff of physicians and other medical staff to provide patient care services.<sup>146</sup> These hospitals may provide other services, such as outpatient services, diagnostic X-ray services, clinical laboratory services, operating room services, physical therapy services, educational and vocational services, and psychological and social work services.<sup>147</sup> The SBA small business size standard for this industry classifies businesses having annual receipts of \$41.5 million or less as small.<sup>148</sup> 2017 U.S. Census Bureau data indicate that 346 firms operated in this industry for the entire year.<sup>149</sup> Of that number, 119 firms had revenue of less than \$25 million, while 169 firms had revenue of \$25 million or more.<sup>150</sup> Based on this data, we conclude the less than half of the firms in this industry are small.

33. *Emergency and Other Relief Services.* This industry comprises establishments primarily engaged in providing food, shelter, clothing, medical relief, resettlement, and counseling to victims of domestic or international disasters or conflicts (e.g., wars).<sup>151</sup> The SBA small business size standard for

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<sup>141</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>142</sup> *Id.*

<sup>143</sup> See U.S. Census Bureau, 2017 NAICS Definition, “622310 Specialty (Except Psychiatric and Substance Abuse) Hospitals,” <https://www.census.gov/naics/?input=622310&year=2017&details=622310>.

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> See 13 CFR § 121.201 NAICS Code 622310.

<sup>149</sup> See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEREVFIRM, NAICS Code 622310, <https://data.census.gov/cedsci/table?y=2017&n=622310&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePrevious=false>.

<sup>150</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue between \$2,500,000 to \$4,999,999, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue for this category). Based on the data provided however, the number of firms with sales/value of shipments/revenue between \$2,500,000 to \$4,999,999 can be calculated. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably. See “<https://www.census.gov/glossary>”.

<sup>151</sup> See U.S. Census Bureau, 2017 NAICS Definition, “624230 Emergency and Other Relief Services,” <https://www.census.gov/naics/?input=624230&year=2017&details=624230>.

this industry classifies firms having annual receipts of \$36.5 million or less as small.<sup>152</sup> The 2017 U.S. Economic Census indicates that 499 firms operated in this industry for the entire year.<sup>153</sup> Of that number, 413 firms had revenue of less than \$25 million.<sup>154</sup> Based on this data, we conclude that a majority of firms in this industry are small.

## 2. Providers of Telecommunications and Other Services

### a. Telecommunications Service Providers

34. *Incumbent Local Exchange Carriers (LECs)*. Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers<sup>155</sup> is the closest industry with an SBA small business size standard.<sup>156</sup> The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>157</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.<sup>158</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>159</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 1,212 providers that reported they were incumbent local exchange service providers.<sup>160</sup> Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees.<sup>161</sup> Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

35. *Interexchange Carriers (IXCs)*. Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications

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<sup>152</sup> See 13 CFR § 121.201, NAICS Code 624230.

<sup>153</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 624230, <https://data.census.gov/cedsci/table?y=2017&n=624230&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>154</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue of less than \$100,000 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>155</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>156</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>157</sup> *Id.*

<sup>158</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>159</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>160</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>161</sup> *Id.*

Carriers<sup>162</sup> is the closest industry with a SBA small business size standard.<sup>163</sup> The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>164</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>165</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>166</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 127 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 109 providers have 1,500 or fewer employees.<sup>167</sup> Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

36. *Competitive Access Providers.* Neither the Commission nor the SBA have developed a definition of small entities specifically applicable to CAPs. The closest applicable industry with a SBA small business size standard is Wired Telecommunications Carriers.<sup>168</sup> Under the SBA small business size standard a Wired Telecommunications Carrier is a small entity if it employs 1,500 employees or less.<sup>169</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.<sup>170</sup> Of that number, 2,964 firms operated with fewer than 250 employees.<sup>171</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 659 CAPs and competitive local exchange carriers (CLECs), and 69 cable/coax CLECs that reported they were engaged in the provision of competitive local exchange services.<sup>172</sup> Of these providers, the Commission estimates that 633 providers have 1,500 or fewer employees.<sup>173</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

37. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as

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<sup>162</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>163</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>164</sup> *Id.*

<sup>165</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>166</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>167</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>168</sup> See, U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>169</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>170</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>171</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>172</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>173</sup> *Id.*



establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.<sup>174</sup> Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband Internet services.<sup>175</sup> By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.<sup>176</sup> Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.<sup>177</sup>

38. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>178</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>179</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>180</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services.<sup>181</sup> Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.<sup>182</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

39. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.<sup>183</sup> Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and wireless video services.<sup>184</sup> The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>185</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms in this

<sup>174</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>175</sup> *Id.*

<sup>176</sup> *Id.*

<sup>177</sup> Fixed Local Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, and Other Local Service Providers. Local Resellers fall into another U.S. Census Bureau industry group and therefore data for these providers is not included in this industry.

<sup>178</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>179</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIIRM, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIIRM&hidePreview=false>.

<sup>180</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>181</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>. <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

<sup>182</sup> *Id.*

<sup>183</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite),"* <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>184</sup> *Id.*

<sup>185</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

industry that operated for the entire year.<sup>186</sup> Of that number, 2,837 firms employed fewer than 250 employees.<sup>187</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services.<sup>188</sup> Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.<sup>189</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

40. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable industry with an SBA small business size standard is Wireless Telecommunications Carriers (except Satellite).<sup>190</sup> The size standard for this industry under SBA rules is that a business is small if it has 1,500 or fewer employees.<sup>191</sup> For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year.<sup>192</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>193</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 331 providers that reported they were engaged in the provision of cellular, personal communications services, and specialized mobile radio services.<sup>194</sup> Of these providers, the Commission estimates that 255 providers have 1,500 or fewer employees.<sup>195</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

41. *Satellite Telecommunications.* This industry comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."<sup>196</sup> Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small.<sup>197</sup> U.S. Census Bureau data for 2017 show that 275

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<sup>186</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

<sup>187</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>188</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>189</sup> *Id.*

<sup>190</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (except Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>191</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>192</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

<sup>193</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>194</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>195</sup> *Id.*

<sup>196</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517410 Satellite Telecommunications," <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

<sup>197</sup> See 13 CFR § 121.201, NAICS Code 517410.

firms in this industry operated for the entire year.<sup>198</sup> Of this number, 242 firms had revenue of less than \$25 million.<sup>199</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services.<sup>200</sup> Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees.<sup>201</sup> Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

42. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.<sup>202</sup> This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.<sup>203</sup> Providers of Internet services (e.g. dial-up ISPs) or Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry.<sup>204</sup> The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small.<sup>205</sup> U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.<sup>206</sup> Of those firms, 1,039 had revenue of less than \$25 million.<sup>207</sup> Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

#### **b. Internet Service Providers**

43. *Wired Broadband Internet Access Service Providers (Wired ISPs).*<sup>208</sup> Providers of wired broadband Internet access service include various types of providers except dial-up Internet access providers. Wireline service that terminates at an end user location or mobile device and enables the end

<sup>198</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>199</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>200</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>201</sup> *Id.*

<sup>202</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517919 All Other Telecommunications," <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

<sup>205</sup> See 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

<sup>206</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

<sup>207</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>208</sup> Formerly included in the scope of the Internet Service Providers (Broadband), Wired Telecommunications Carriers and All Other Telecommunications small entity industry descriptions.



user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules.<sup>209</sup> Wired broadband Internet services fall in the Wired Telecommunications Carriers industry.<sup>210</sup> The SBA small business size standard for this industry classifies firms having 1,500 or fewer employees as small.<sup>211</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>212</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>213</sup>

44. Additionally, according to Commission data on Internet access services as of June 30, 2019, nationwide there were approximately 2,747 providers of connections over 200 kbps in at least one direction using various wireline technologies.<sup>214</sup> The Commission does not collect data on the number of employees for providers of these services, therefore, at this time we are not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, in light of the general data on fixed technology service providers in the Commission's *2022 Communications Marketplace Report*,<sup>215</sup> we believe that the majority of wireline Internet access service providers can be considered small entities.

45. *Internet Service Providers (Non-Broadband)*. Internet access service providers using client-supplied telecommunications connections (e.g., dial-up ISPs) as well as VoIP service providers using client-supplied telecommunications connections fall in the industry classification of All Other Telecommunications.<sup>216</sup> The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small.<sup>217</sup> For this industry, U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.<sup>218</sup> Of those firms, 1,039

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<sup>209</sup> See 47 CFR § 1.7001(a)(1).

<sup>210</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>211</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>212</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>213</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>214</sup> See Federal Communications Commission, *Internet Access Services: Status as of June 30, 2019* at 27, Fig. 30 (*IAS Status 2019*), Industry Analysis Division, Office of Economics & Analytics (March 2022). The report can be accessed at <https://www.fcc.gov/economics-analytics/industry-analysis-division/iad-data-statistical-reports>. The technologies used by providers include aDSL, sDSL, Other Wireline, Cable Modem and FTTP). Other wireline includes: all copper-wire based technologies other than xDSL (such as Ethernet over copper, T-1/DS-1 and T3/DS-1) as well as power line technologies which are included in this category to maintain the confidentiality of the providers.

<sup>215</sup> See *Communications Marketplace Report*, GN Docket No. 22-203, 2022 WL 18110553 at 10, paras. 26-27, Figs. II.A.5-7. (2022) (*2022 Communications Marketplace Report*).

<sup>216</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517919 All Other Telecommunications," <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

<sup>217</sup> See 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

<sup>218</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

had revenue of less than \$25 million.<sup>219</sup> Consequently, under the SBA size standard a majority of firms in this industry can be considered small.

**c. Vendors and Equipment Manufacturers**

46. *Vendors of Infrastructure Development or “Network Buildout.”* The Commission nor the SBA have developed a small business size standard specifically directed toward manufacturers of network facilities. There are two applicable industries in which manufacturers of network facilities could fall and each have different SBA business size standards. The applicable industries are “Radio and Television Broadcasting and Wireless Communications Equipment”<sup>220</sup> with a SBA small business size standard of 1,250 employees or less,<sup>221</sup> and “Other Communications Equipment Manufacturing”<sup>222</sup> with a SBA small business size standard of 750 employees or less.<sup>223</sup> U.S. Census Bureau data for 2017 show that for Radio and Television Broadcasting and Wireless Communications Equipment there were 656 firms in this industry that operated for the entire year.<sup>224</sup> Of this number, 624 firms had fewer than 250 employees.<sup>225</sup> For Other Communications Equipment Manufacturing, U.S. Census Bureau data for 2017 show that there were 321 firms in this industry that operated for the entire year.<sup>226</sup> Of that number, 310 firms operated with fewer than 250 employees.<sup>227</sup> Based on this data, we conclude that the majority of firms in this industry are small.

47. *Telephone Apparatus Manufacturing.* This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment.<sup>228</sup> These products may be stand-alone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless and wire telephones (except cellular), PBX equipment, telephone answering machines, LAN modems, multi-user modems, and other data

<sup>219</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>220</sup> See U.S. Census Bureau, 2017 NAICS Definition, “334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing,” <https://www.census.gov/naics/?input=334220&year=2017&details=334220>.

<sup>221</sup> See 13 CFR § 121.201, NAICS Code 334220.

<sup>222</sup> See U.S. Census Bureau, 2017 NAICS Definition, “334290 Other Communications Equipment Manufacturing,” <https://www.census.gov/naics/?input=334290&year=2017&details=334290>.

<sup>223</sup> See 13 CFR § 121.201, NAICS Code 334290.

<sup>224</sup> See U.S. Census Bureau, 2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEEMPFI, NAICS Code 334220, <https://data.census.gov/cedsci/table?y=2017&n=334220&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>225</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>226</sup> See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEEMPFI, NAICS Code 334290, <https://data.census.gov/cedsci/table?y=2017&n=334290&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>227</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>228</sup> See U.S. Census Bureau, 2017 NAICS Definition, “334210 Telephone Apparatus Manufacturing,” <https://www.census.gov/naics/?input=334210&year=2017&details=334210>.

communications equipment, such as bridges, routers, and gateways.<sup>229</sup> The SBA small business size standard for Telephone Apparatus Manufacturing classifies businesses having 1,250 or fewer employees as small.<sup>230</sup> U.S. Census Bureau data for 2017 show that there were 189 firms in this industry that operated for the entire year.<sup>231</sup> Of this number, 177 firms operated with fewer than 250 employees.<sup>232</sup> Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

48. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment.<sup>233</sup> Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.<sup>234</sup> The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small.<sup>235</sup> U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year.<sup>236</sup> Of this number, 624 firms had fewer than 250 employees.<sup>237</sup> Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

49. *Other Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment).<sup>238</sup> Examples of such manufacturing include fire detection and alarm systems manufacturing, Intercom systems and equipment manufacturing, and signals (e.g., highway, pedestrian, railway, traffic) manufacturing.<sup>239</sup> The SBA small business size standard for this industry classifies firms having 750 or fewer employees as small.<sup>240</sup> U.S. Census Bureau data for 2017 show that 321 firms in this industry operated for the entire

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<sup>229</sup> *Id.*

<sup>230</sup> See 13 CFR § 121.201, NAICS Code 334210.

<sup>231</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 334210, <https://data.census.gov/cedsci/table?y=2017&n=334210&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>232</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>233</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing,” <https://www.census.gov/naics/?input=334220&year=2017&details=334220>.

<sup>234</sup> *Id.*

<sup>235</sup> See 13 CFR § 121.201, NAICS Code 334220.

<sup>236</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 334220, <https://data.census.gov/cedsci/table?y=2017&n=334220&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

<sup>237</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>238</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “334290 Other Communications Equipment Manufacturing,” <https://www.census.gov/naics/?input=334290&year=2017&details=334290>.

<sup>239</sup> *Id.*

<sup>240</sup> See 13 CFR 121.201, NAICS Code 334290.

year.<sup>241</sup> Of this number, 310 firms operated with fewer than 250 employees.<sup>242</sup> Based on this data, we conclude that the majority of firms in this industry are small.

**E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

50. The rules adopted in the *Third Report and Order* will result in modified reporting, recordkeeping, or other compliance requirements for small and other entities. Applicants that request conditional approval for eligibility must submit an eligibility determination and supporting documentation, along with an estimated date to meet all eligibility requirements. They must also be located in a rural area as defined in section 54.600(e) of the Commission's rules by the estimated eligibility date, or plan to be a member of a majority-rural Healthcare Connect Fund (HCF) Program consortium that satisfies the eligible rural health care provider composition requirement set forth in section 54.607(b) of the Commission's rules by the estimated eligibility date. An applicant with conditional eligibility that plans to engage in competitive bidding must indicate that the eligibility is conditional, and state the estimated date of eligibility on its competitive bidding form. Applicants with conditional approval of eligibility must also notify the Universal Service Administrative Company (Administrator) within 30 calendar days of its actual eligibility date and provide documentation confirming eligibility. Beginning funding year 2025, a single eligibility determination form for the RHC Program for both the Telecom Program and the HCF Program, FCC Form 469, will be required to be filed once. Applicants will use the FCC Form 460 for eligibility determinations in the Telecom Program and the eligibility determination portion will be eliminated from the FCC Form 465. We also amend section 54.601(b) to require health care providers in both programs to notify the Administrator of changes to their name, location, contact information, or eligible entity type. Telecom Program providers with invoices for funding years 2019 and earlier, must submit invoices by July 1, 2024, after which, any funding commitments for 2019 and earlier will be de-obligated and providers will not be able to invoice for services.

51. We expect the actions we take in the *Third Report and Order* will achieve the goals of improving the effectiveness and efficiency of the RHC Program without placing significant additional costs and burdens on small entities. At present, there is not sufficient information on the record to quantify the cost of compliance for small entities, however, we anticipate that the compliance obligations for small providers will be outweighed by the benefits of improving the RHC Program's capacity to distribute telecommunications and broadband support to rural health care providers.

**F. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

52. The RFA requires an agency to provide "a description of the steps the agency has taken to minimize the significant economic impact on small entities...including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."<sup>243</sup>

53. In the *Third Report and Order*, we take steps to minimize the economic impact on small entities with the rule changes that we have adopted. For example, we allow conditional approval of

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<sup>241</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 334290, <https://data.census.gov/cedsci/table?y=2017&n=334290&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

<sup>242</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>243</sup> 5 U.S.C. § 604(a)(6).

eligibility for RHC Program funding to allow soon-to-be eligible providers to begin competitive bidding and request funding so that they may receive support as soon as they become eligible. We align the SPIN change deadline with the invoice filing deadline to give small entities more time to complete SPIN changes. We simplify urban rate calculations by eliminating the standard urban distance provision, which will ease administrative burdens on small entities. We change evergreen contract dates to provide small entities with the benefits of evergreen contract designation across the full length of the contract's term. As a part of our reforms to use the same form for eligibility determinations in the Telecom and HCF Program, we allow small entities to continue using their existing eligibility determinations. Finally, in establishing an invoice deadline for funding year 2019 and earlier, we provide ample time for small providers and other entities to meet that deadline. These actions will promote efficiency and promote the goals of these programs, while strengthening protections against waste, fraud and abuse.

**G. Report to Congress**

54. The Commission will send a copy of the *Third Report and Order*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.<sup>244</sup> In addition, the Commission will send a copy of the *Third Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Third Report and Order* and FRFA (or summaries thereof) will also be published in the Federal Register.<sup>245</sup>

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<sup>244</sup> *Id.* § 801(a)(1)(A).

<sup>245</sup> *Id.* § 604(b).

## APPENDIX C

**2023 Second Further Notice of Proposed Rulemaking  
List of Commenters and Reply Commenters**

<b><i>Commenter</i></b>	<b><u>Comments</u></b>	<b><i>Abbreviation</i></b>	<b><i>Date Filed</i></b>
American Association of Nurse Practitioners/Frank Harrington		AANP/FH	Apr. 24, 2023
GCI Communication Corp.		GCI	Apr. 24, 2023
National Rural Health Association		NRHA	Apr. 24, 2023
Schools, Health & Libraries Broadband Coalition		SHLB	Apr. 24, 2023
Rachel Untalan		Untalan	Apr. 20, 2023

<b><i>Commenter</i></b>	<b><u>Reply Comments</u></b>	<b><i>Abbreviation</i></b>	<b><i>Date Filed</i></b>
Advanced Data Services, Inc.		ADS	May 22, 2023
Alaska Communications Systems Group, Inc.		ACS	May 22, 2023
Alaska Native Tribal Health Consortium		ANTHC	May 22, 2023
Alaska Primary Care Association		APCA	May 16, 2023
GCI Communication Corp.		GCI	May 5, 2023
NCTA – The Internet and Television Association		NCTA	May 22, 2023
New England Telehealth Consortium		NETC	May 22, 2023
Collin Quigley		Quigley	May 2, 2023
Schools, Health & Libraries Broadband Coalition		SHLB	May 22, 2023
Uniti Fiber LLC		Uniti	May 22, 2023
USTelecom – The Broadband Association		USTelecom	May 22, 2023

<b><i>Filer</i></b>	<b><u>Ex Parte Letters Cited</u></b>	<b><i>Date Filed</i></b>
Schools, Health & Libraries Broadband Coalition	SHLB Jan. 17, 2023 <i>Ex Parte</i> Letter	Jan. 17, 2023
Schools, Health & Libraries Broadband Coalition	SHLB Jan. 19, 2023 <i>Ex Parte</i> Letter	Jan. 19, 2023
Schools, Health & Libraries Broadband Coalition	SHLB Dec. 7, 2023 <i>Ex Parte</i> Letter	Dec. 7, 2023

**STATEMENT OF  
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Third Report and Order  
(December 13, 2023).

The Federal Communications Commission has been supporting telemedicine way before it was trendy. For more than 25 years, the agency’s rural health care program has been a force for good, helping sustain telehealth services in some of the hardest-to-reach corners of this country. But post-pandemic telemedicine has moved into the medical mainstream. Virtual appointments, remote monitoring, and support for advanced medical imaging are now familiar to patients in rural America, urban America, and everything in between. It has been incredible to see such extraordinary change in healthcare and technology.

What does not change, however, is that this agency needs to update its rural health care program to ensure that it serves the places that need support with modern telehealth technology. That is why today we are taking steps to simplify our rules, speed access to the program for new providers, and free up millions of dollars of unused program funding.

These changes are vital. After all, there are forces out there—insurance limitations, licensing restrictions, resistance to Medicaid expansion, and court cases that can make it harder for patients to access healthcare. We will do all we can at this agency to ensure that despite these challenges, this program—like it has for more than a quarter of a century—continues to help provide first-class care in rural communities across the country.

Thank you to the staff who worked on this order, including Allison Baker, Phil Bonomo, Bryan Boyle, Cheryl Callahan, Callie Coker, Adam Copeland, Ross Fisher, Jodie Griffin, Trent Harkrader, Clint Highfill, Sonam James, Avis Mitchell, Kiara Ortiz, and Helen Zhang of the Wireline Competition Bureau; Marcus Maher, Rick Mallen, Derek Yeo, and Chin Yoo of the Office of General Counsel; and Eugene Kiselev, Eric Ralph, and Shane Taylor of the Office of Economics and Analytics.